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APPENDIX A TO PART 500—QUALIFYING INTERNATIONAL INSTITUTIONS

AUTHORITY: 18 U.S.C. 2332d; 31 U.S.C. 321(b); 50 U.S.C. App. 1-44; Pub. L. 101-410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 9193, 7 FR 5205, 3 CFR, 1938-1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943-1948 Comp., p. 748.

SOURCE: 15 FR 9040, Dec. 19, 1950, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 500.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. No license or authorization contained in or issued pursuant to one of those parts, or any other provision of law, authorizes any transaction prohibited by this part.

(b) No license or authorization contained in or issued pursuant to this part shall be deemed to authorize any transaction prohibited by any law other than the Trading With the Enemy Act, 50 U.S.C. App. 5(b), as amended, the Foreign Assistance Act of 1961, 22 U.S.C. 2370, or any proclamation, order, regulation or license issued pursuant thereto.

[50 FR 27436, July 3, 1985, as amended at 62 FR 45101, Aug. 25, 1997]

Subpart B—Prohibitions

§ 500.201 Transactions involving designated foreign countries or their nationals; effective date.

(a) All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury (or any person, agency, or instrumentality designated by him) by means of regulations, rulings, instructions, licenses, or otherwise, if either such transactions are by, or on behalf of, or pursuant to the direction of any designated foreign country, or any national thereof, or such transactions involve property in which any designated foreign country, or any national thereof, has at any time on or since the effective date of this section had any interest of any nature whatsoever, direct or indirect:

(1) All transfers of credit and all payments between, by, through, or to any banking institution or banking institutions wheresoever located, with respect to any property subject to the jurisdiction of the United States or by any person (including a banking institution) subject to the jurisdiction of the United States;

(2) All transactions in foreign exchange by any person within the United States; and

(3) The exportation or withdrawal from the United States of gold or silver coin or bullion, currency or securities, or the earmarking of any such property, by any person within the United States.

(b) All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury (or any person, agency, or instrumentality designated by him) by means of regulations, rulings, instructions, licenses, or otherwise, if such transactions involve property in which any designated foreign country, or any national thereof, has at any time on or since the effective date of this section had any interest of any nature whatsoever, direct or indirect:

(1) All dealings in, including, without limitation, transfers, withdrawals, or exportations of, any property or evidences of indebtedness or evidences of ownership of property by any person

subject to the jurisdiction of the United States; and

(2) All transfers outside the United States with regard to any property or property interest subject to the jurisdiction of the United States.

(c) Any transaction for the purpose or which has the effect of evading or avoiding any of the prohibitions set forth in paragraph (a) or (b) of this section is hereby prohibited.

(d) The term “designated foreign country” means a foreign country in the following schedule, and the terms “effective date” and “effective date of this section” mean with respect to any designated foreign country, or any national thereof, 12:01 a.m. eastern standard time of the date specified in the following schedule, except as specifically noted after the country or area.

SCHEDULE

(1) North Korea, i.e., Korea north of the 38th parallel of north latitude: December 17, 1950.

(2) Cambodia: April 17, 1975.

(3) North Vietnam; i.e., Vietnam north of the 17th parallel of north latitude: May 5, 1964.

(4) South Vietnam, i.e., Vietnam south of the 17th parallel of north latitude: April 30, 1975, at 12:00 p.m. e.d.t.

(e) When a transaction results in the blocking of funds at a banking institution pursuant to this section and a party to the transaction believes the funds have been blocked due to mistaken identity, that party may seek to have such funds unblocked pursuant to the administrative procedures set forth in § 501.806 of this chapter.

[15 FR 9040, Dec. 19, 1950, as amended at 18 FR 2079, Apr. 14, 1953; 50 FR 27436, July 3, 1985; 62 FR 45101, Aug. 25, 1997]

§ 500.202 Transactions with respect to securities registered or inscribed in the name of a designated national.

Unless authorized by a license expressly referring to this section, the acquisition, transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, or otherwise dealing in any security (or evidence thereof) registered or inscribed in the

name of any designated national is prohibited irrespective of the fact that at any time (either prior to, on or subsequent to the “effective date”) the registered or inscribed owner thereof may have, or appears to have, assigned, transferred or otherwise disposed of any such security.

§ 500.203 Effect of transfers violating the provisions of this chapter.

(a) Any transfer after the “effective date” which is in violation of any provision of this chapter or of any regulation, ruling, instruction, license, or other direction or authorization thereunder and involves any property in which a designated national has or has had an interest since such “effective date” is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power or privilege with respect to such property.

(b) No transfer before the “effective date” shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any property in which a designated national has or has had an interest since the “effective date” unless the person with whom such property is held or maintained had written notice of the transfer or by any written evidence had recognized such transfer prior to such “effective date.”

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Secretary of the Treasury before, during or after a transfer shall validate such transfer or render it enforceable to the same extent as it would be valid or enforceable but for the provisions of section 5(b) of the Trading With the Enemy Act, as amended, and this chapter and any ruling, order, regulation, direction or instruction issued thereunder.

(d) Transfers of property which otherwise would be null and void, or unenforceable, by virtue of the provisions of this section shall not be deemed to be null and void, or unenforceable pursuant to such provisions, as to any person with whom such property was held or maintained (and as to such person,

only) in cases in which such person is able to establish each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this chapter by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization by or pursuant to the provisions of this chapter and was not so licensed or authorized or if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation or the withholding of material facts or was otherwise fraudulently obtained; and

(3) Promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this chapter or any regulation, ruling, instruction, license or other direction or authorization thereunder, or

(ii) Such transfer was not licensed or authorized by the Secretary of the Treasury, or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation or the withholding of material facts or was otherwise fraudulently obtained;

the person with whom such property was held or maintained filed with the Treasury Department, Washington, DC 20220, a report in triplicate setting forth in full the circumstances relating to such transfer. The filing of a report in accordance with the provisions of this paragraph shall not be deemed to be compliance or evidence of compliance with paragraphs (d) (1) and (2) of this section.

(e) Unless licensed or authorized by § 500.504 or otherwise licensed or authorized pursuant to this chapter any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which on or since the "effective date" there existed the interest of a designated foreign country or national thereof.

(f) For the purpose of this section the term "property" includes gold, silver, bullion, currency, coin, credit, securi-

ties (as that term is defined in section 2(1) of the Securities Act of 1933, as amended) (48 Stat. 74; 15 U.S.C. 77(b)), bills of exchange, notes, drafts, acceptances, checks, letters of credit, book credits, debts, claims, contracts, negotiable documents of title, mortgages, liens, annuities, insurance policies, options and futures in commodities, and evidences of any of the foregoing. The term "property" shall not, except to the extent indicated, be deemed to include chattels or real property.

[15 FR 9040, Dec. 19, 1950, as amended at 41 FR 16553, Apr. 20, 1976]

§ 500.204 Importation of and dealings in certain merchandise.

(a) Except as specifically authorized by the Secretary of the Treasury (or any person, agency, or instrumentality designated by him) by means of regulations, or rulings, instructions, licenses, or otherwise, persons subject to the jurisdiction of the United States may not purchase, transport, import, or otherwise deal in or engage in any transaction with respect to any merchandise outside the United States specified in following paragraph (a)(1) of this section.

(1) Merchandise the country of origin of which is North Korea, North Viet-Nam, Cambodia, or South Viet-Nam. Articles which are the growth, produce or manufacture of these areas shall be deemed for the purposes of this chapter to be merchandise whose country of origin is North Korea, North Viet-Nam, Cambodia, or South Viet-Nam, notwithstanding that they may have been subjected to one or any combination of the following processes in another country:

- (i) Grading;
- (ii) Testing;
- (iii) Checking;
- (iv) Shredding;
- (v) Slicing;
- (vi) Peeling or splitting;
- (vii) Scraping;
- (viii) Cleaning;
- (ix) Washing;
- (x) Soaking;
- (xi) Drying;
- (xii) Cooling, chilling or refrigerating;
- (xiii) Roasting;
- (xiv) Steaming;

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(xv) Cooking;
(xvi) Curing;
(xvii) Combining of fur skins into plates;
(xviii) Blending;
(xix) Flavoring;
(xx) Preserving;
(xxi) Pickling;
(xxii) Smoking;
(xxiii) Dressing;
(xxiv) Salting;
(xxv) Dyeing;
(xxvi) Bleaching;
(xxvii) Tanning;
(xxviii) Packing;
(xxix) Canning;
(xxx) Labeling;
(xxxi) Carding;
(xxxii) Combing;
(xxxiii) Pressing;
(xxxiv) Any process similar to any of the foregoing.

Any article wheresoever manufactured shall be deemed for the purposes of this chapter to be merchandise whose country of origin is North Korea, North Viet-Nam, Cambodia, or South Viet-Nam, if there shall have been added to such articles any embroidery, needle point, petit point, lace or any other article of adornment which is the product of North Korea, North Viet-Nam, Cambodia, or South Viet-Nam, notwithstanding that such addition to the merchandise may have occurred in a country other than North Korea, North Viet-Nam, Cambodia, or South Viet-Nam.

[40 FR 19202, May 2, 1975, as amended at 41 FR 16553, Apr. 20, 1976; 45 FR 7224, Jan. 31, 1980]

§ 500.205 Holding of certain types of blocked property in interest-bearing accounts.

(a) Except as provided by paragraphs (d), (e) and (f) of this section, or as authorized by the Secretary of the Treasury or his delegate by specific license, any person holding any property included in paragraph (h) of this section is prohibited from holding, withholding, using, transferring, engaging in any transactions involving, or exercising any right, power, or privilege with respect to any such property, unless it is held in an interest-bearing account in a domestic bank.

(b) Any person presently holding property subject to the provisions of paragraph (a) of this section which, as of the effective date of this section, is not being held in accordance with the provisions of that paragraph, shall transfer such property to or hold such property or cause such property to be held in an interest-bearing account in any domestic bank within 30 days of the effective date of this section.

(c) Any person holding any checks or drafts subject to the provisions of § 500.201 is authorized and directed, wherever possible consistent with state law (except as otherwise specifically provided in paragraph (c)(3) of this section), to negotiate or present for collection or payment such instruments and credit the proceeds to interest-bearing accounts. Any transaction by any person incident to the negotiation, processing, presentment, collection or payment of such instruments and deposit of the proceeds into an interest-bearing account is hereby authorized: *Provided, That:*

(1) The transaction does not represent, directly or indirectly, a transfer of the interest of a designated national to any other country or person;

(2) The proceeds are held in a blocked account indicating the designated national who is the payee or owner of the instrument; and,

(3) In the case of a blocked check or draft which has been purchased by the maker/drawer from the drawee bank (*e.g.*, cashier's check, money order, or traveler's check) or which is drawn against a presently existing account, such bank, on presentment of the instrument in accordance with the provisions of this section, shall either:

(i) Pay the instrument (subject to paragraphs (c) (1) and (2) of this section) or

(ii) Credit a blocked account on its books with the amount payable on the instrument.

In either event, the blocked account shall be identified as resulting from the proceeds of a blocked check or draft, and the identification shall include a reference to the names of both the maker and payee of the instrument.

(d) Property subject to the provisions of paragraph (a) or (b) of this section,

held by a person claiming a set-off against such property, is exempt from the provisions of paragraphs (a), (b) and (c) of this section to the extent of the set-off: *Provided however*, That interest shall be due from 30 days after the effective date of this section if it should ultimately be determined that the claim to a set-off is without merit.

(e) Property subject to the provisions of paragraphs (a) and (b) of this section, held in a customer's account by a registered broker/dealer in securities, may continue to be held for the customer by the broker/dealer provided interest is credited to the account on any balance not invested in securities in accordance with § 500.513. The interest paid on such accounts by a broker/dealer who does not elect to hold such property for a customer's account in a domestic bank shall not be less than the maximum rate payable on the shortest time deposit available in any domestic bank in the jurisdiction in which the broker/dealer holds the account.

(f) Property subject to the provisions of paragraphs (a) and (b) of this section, held by a state agency charged with the custody of abandoned or unclaimed property under § 500.561 may continue to be held by the agency provided interest is credited to the blocked account in which the property is held by the agency, or the property is held by the agency in a blocked account in a domestic bank. The interest credited to such accounts by an agency which does not elect to hold such property in a domestic bank shall not be less than the maximum rate payable on the shortest time deposit available in any domestic bank in the state.

(g) For purposes of this section, the term "interest-bearing account" means a blocked account earning interest at no less than the maximum rate payable on the shortest time deposit in the domestic bank where the account is held, provided however, that such an account may include six-month Treasury bills or insured certificates, with a maturity not exceeding six-months, appropriate to the amounts involved.

(h) The following types of property are subject to paragraphs (a) and (b) of this section:

(1) Any currency, bank deposit and bank accounts subject to the provisions of § 500.201;

(2) Any property subject to the provisions of § 500.201 which consists, in whole or in part, of undisputed and either liquidated or matured debts, claims, obligations or other evidence of indebtedness, to the extent of any amount that is undisputed and liquidated or matured; and,

(3) Any proceeds resulting from the payment of an obligation under paragraph (c) of this section.

(i) For purposes of this section, the term "domestic bank" includes any FSLIC-insured institution (as defined in 12 CFR 561.1).

(j) For the purposes of this section the term "person" includes the United States Government or any agency or instrumentality thereof, except where the agency or instrumentality submits to the Office of Foreign Assets Control an opinion of its General Counsel that either:

(1) It lacks statutory authority to comply with this section, or

(2) The requirements of paragraphs (a) and (b) of this section are inconsistent with the statutory program under which it operates.

[44 FR 11766, Mar. 2, 1979]

§ 500.206 Exemption of information and informational materials.

(a) The importation from any country and the exportation to any country of information or informational materials as defined in § 500.332, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions and regulations of this part.

(b) All transactions of common carriers incident to the importation or exportation of information or informational materials, including mail, between the United States and any foreign country designated under § 500.201, are exempt from the prohibitions and regulations of this part.

(c) This section does not authorize transactions related to information or informational materials not fully created and in existence at the date of the transaction, or to the substantive or artistic alteration or enhancement of

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information or informational materials, or to the provision of marketing and business consulting services by a person subject to the jurisdiction of the United States. Such prohibited transactions include, without limitation, payment of advances for information or informational materials not yet created and completed, provision of services to market, produce or co-produce, create or assist in the creation of information or informational materials, and payment or royalties to a designated national with respect to income received for enhancements or alterations made by persons subject to the jurisdiction of the United States to information or informational materials imported from a designated national.

(d) This section does not authorize transactions incident to the exportation of restricted technical data as defined in section 799 of the Export Administration Regulations, 15 CFR parts 768–799, or to the exportation of goods for use in the transmission of any data. The exportation of such goods to designated foreign countries is prohibited, as provided in § 500.201 of this part and § 785.1 of the Export Administration Regulations.

Example #1: A U.S. publisher ships 500 copies of a book to Vietnam directly from San Francisco aboard a chartered aircraft, and receives payment by means of a letter of credit issued by a Vietnamese bank and confirmed by an American bank. These are permissible transactions under this section.

Example #2: A Vietnamese party exports a single master copy of a Vietnamese motion picture to a U.S. party and licenses the U.S. party to duplicate, distribute, show and exploit in the United States the Vietnamese film in any medium, including home video distribution, for five years, with the Vietnamese party receiving 40% of the net income. All transactions relating to the activities described in this example are authorized under this section or § 500.550.

Example #3: A U.S. recording company proposes to contract with a Vietnamese musician to create certain musical compositions, and to advance royalties of \$10,000 to the musician. The music written in Vietnam is to be recorded in a studio that the recording company owns in the Bahamas. These are all prohibited transactions. The U.S. party is prohibited under § 500.201 from contracting for the Vietnamese musician's services, from transferring \$10,000 to Vietnam to pay for those services, and from providing the Vietnamese with production services through the

use of its studio in the Bahamas. No informational materials are in being at the time of these proposed transactions. However, the U.S. recording company may contract to purchase and import preexisting recordings by the Vietnamese musician, or to copy the recordings in the United States and pay negotiated royalties to Vietnam under this section or § 500.550.

Example #4: A Vietnamese party enters into a subpublication agreement licensing a U.S. party to print and publish copies of a musical composition and to sub-license rights of public performance, adaptation, and arrangement of the musical composition, with payment to be a percentage of income received. All transactions related to the activities described in this example are authorized under this section and § 500.550, except for adaption and arrangement, which constitute artistic enhancement of the Vietnamese composition. Payment to the Vietnamese party may not reflect income received as a result of these enhancements.

[54 FR 5231, Feb. 2, 1989, as amended at 60 FR 8934, Feb. 16, 1995]

Subpart C—General Definitions

§ 500.301 Foreign country.

The term *foreign country* also includes, but not by way of limitation:

(a) The state and the government of any such territory on or after the “effective date” as well as any political subdivision, agency, or instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion possession or place subject to the jurisdiction thereof,

(b) Any other government (including any political subdivision, agency, or instrumentality thereof) to the extent and only to the extent that such government exercises or claims to exercise control, authority, jurisdiction or sovereignty over territory which on the “effective date” constituted such foreign country,

(c) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the “effective date”, acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing, and

(d) Any territory which on or since the “effective date” is controlled or occupied by the military, naval or police

forces or other authority of such foreign country.

§ 500.302 National.

(a) The term *national* shall include:

(1) A subject or citizen of a country or any person who has been domiciled in or a permanent resident of that country at any time on or since the “effective date,” except persons who were resident or domiciled there in the service of the U.S. Government.

(2) Any partnership, association, corporation, or other organization, organized under the laws of, or which on or since the “effective date” had or has had its principal place of business in a foreign country, or which on or since such effective date was or has been controlled by, or a substantial part of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of which, was or has been owned or controlled by, directly or indirectly, a foreign country and/or one or more nationals thereof as defined in this section.

(3) Any person to the extent that such person is, or has been, since the “effective date” acting or purporting to act directly or indirectly for the benefit or on behalf of any national of a foreign country.

(4) Any other person who there is reasonable cause to believe is a “national” as defined in this section.

(b) The Secretary of the Treasury retains full power to determine that any person is or shall be deemed to be a “national” within the meaning of this section, and to specify the foreign country of which such person is or shall be deemed to be a national.

[17 FR 5343, June 12, 1952, as amended at 50 FR 27436, July 3, 1985]

§ 500.303 Nationals of more than one foreign country.

(a) Any person who by virtue of any provision in this chapter is a national of more than one foreign country shall be deemed to be a national of each of such foreign countries.

(b) In any case in which a person is a national of two or more designated foreign countries, a license or authorization with respect to nationals of one of such designated foreign countries shall not be deemed to apply to such person

unless a license or authorization of equal or greater scope is outstanding with respect to nationals of each other designated foreign country of which such person is a national.

(c) In any case in which the combined interests of two or more designated foreign countries and/or nationals thereof are sufficient in the aggregate to constitute control or ownership of 25 per centum or more of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of a partnership, association, corporation or other organization, but such control or a substantial part of such stock, shares, bonds, debentures, notes, drafts, or other securities or obligations is not held by any one such foreign country and/or national thereof, such partnership, association, corporation or other organization shall be deemed to be a national of each of such foreign countries.

§ 500.305 Designated national.

The term *designated national* shall mean any country designated in § 500.201 and any national thereof including any person who is a specially designated national.

§ 500.306 Specially designated national.

(a) The term *specially designated national* shall mean:

(1) Any person who is determined by the Secretary of the Treasury to be a specially designated national.

(2) Any person who on or since the “effective date” has acted for or on behalf of the Government or authorities exercising control over any designated foreign country, or

(3) Any partnership, association, corporation or other organization which on or since the “effective date” has been owned or controlled directly or indirectly by the Government or authorities exercising control over any designated foreign country or by any specially designated national.

(b) [Reserved]

NOTE TO § 500.306: Please refer to the appendices at the end of this chapter for listings of persons designated pursuant to this part. Section 501.807 of this chapter sets forth the procedures to be followed by persons seeking administrative reconsideration of their designation or that of a vessel as blocked, or

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who wish to assert that the circumstances resulting in the designation are no longer applicable.

[15 FR 9040, Dec. 19, 1950, as amended at 41 FR 16554, Apr. 20, 1976; 61 FR 32938, June 26, 1996; 62 FR 45101, Aug. 25, 1997]

§ 500.307 Unblocked national.

Any person licensed pursuant to § 500.505 as an *unblocked national* shall, while so licensed, be regarded as a person within the United States who is not a national of any designated foreign country: *Provided, however*, That the licensing of any person as an “unblocked national” shall not be deemed to suspend in any way the requirements of any section of this chapter relating to reports, and the production of books, documents, records, etc.

[15 FR 9040, Dec. 19, 1950, as amended at 54 FR 5231, Feb. 2, 1989]

§ 500.308 Person.

The term *person* means an individual, partnership, association, corporation, or other organization.

§ 500.309 Transactions.

The phrase *transactions which involve property in which any designated foreign country, or any national thereof, has any interest of any nature whatsoever, direct or indirect*, includes, but not by way of limitation:

(a) Any payment or transfer to any such designated foreign country or national thereof.

(b) Any export or withdrawal from the United States to such designated foreign country, and

(c) Any transfer of credit, or payment of an obligation, expressed in terms of the currency of such designated foreign country.

§ 500.310 Transfer.

The term *transfer* shall mean any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and without limitation upon the foregoing shall include the making, execution, or deliv-

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ery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit or statement; the appointment of any agent trustee, or other fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or the levy of or under any judgment, decree, attachment, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition, or the exercise of any power of appointment, power of attorney, or other power.

§ 500.311 Property; property interests.

Except as defined in § 500.203(f) for the purposes of that section the terms *property* and *property interest* or *property interests* shall include, but not by way of limitation, money, checks, drafts, bullion, bank deposits, savings accounts, any debts, indebtedness obligations, notes, debentures, stocks, bonds, coupons, any other financial securities, bankers' acceptances, mortgages, pledges, liens or other right in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, real estate and any interest therein, leaseholds, ground rents, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks, copyrights, contracts or licenses affecting or involving patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, contracts of any nature whatsoever, services, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

[15 FR 9040, Dec. 19, 1950, as amended at 55 FR 31179, Aug. 1, 1990]

§ 500.312 Interest.

The term *interest* when used with respect to property shall mean an interest of any nature whatsoever, direct or indirect.

§ 500.313 Property subject to the jurisdiction of the United States.

(a) The phrase *property subject to the jurisdiction of the United States* includes, without limitation, securities, whether registered or bearer, issued by:

(1) The United States or any State, district, territory, possession, county, municipality, or any other subdivision or agency or instrumentality of any thereof; or

(2) Any person within the United States whether the certificate which evidences such property or interest is physically located within or outside the United States.

(b) The phrase *property subject to the jurisdiction of the United States* also includes, without limitation, securities, whether registered or bearer, by whomsoever issued, if the certificate evidencing such property or interest is physically located within the United States.

§ 500.314 Banking institution.

The term *banking institution* shall include any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or any broker; and, each principal, agent, home office, branch or correspondent of any person so engaged shall be regarded as a separate “banking institution.”

§ 500.316 License.

Except as otherwise specified, the term *license* shall mean any license or authorization contained in or issued pursuant to this chapter.

[28 FR 6973, July 9, 1963]

§ 500.317 General license.

A *general license* is any license or authorization the terms of which are set forth in this chapter.

§ 500.318 Specific license.

A *specific license* is any license or authorization issued pursuant to this chapter but not set forth in this chapter.

§ 500.319 Blocked account.

The term *blocked account* shall mean an account in which any designated national has an interest, with respect to which account payments, transfers or withdrawals of other dealings may not be made or effected except pursuant to an authorization or license authorizing such action. The term *blocked account* shall not be deemed to include accounts of unblocked nationals.

§ 500.320 Domestic bank.

The term *domestic bank* shall mean any branch or office within the United States of any of the following which is not a national of any designated foreign country: Any bank or trust company incorporated under the banking laws of the United States or of any State, territory, or district of the United States, or any private bank or banker subject to supervision and examination under the banking laws of the United States, or of any state, territory or district of the United States. The Secretary of the Treasury may also authorize any other banking institution to be treated as a “domestic bank” for the purpose of this definition or for the purpose of any or all sections of this chapter.

§ 500.321 United States; continental United States.

The term *United States* means the United States and all areas under the jurisdiction or authority thereof, including U.S. trust territories and commonwealths. The term *continental United States* means the states of the United States and the District of Columbia.

[50 FR 27436, July 3, 1985]

§ 500.322 Authorized trade territory; member of the authorized trade territory.

(a) The term *authorized trade territory* shall include:

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(1) North, South and Central America, including the Caribbean region, except Cuba;

(2) Africa;

(3) Australia and Oceania, including Indonesia, New Zealand, and the Philippines;

(4) Andorra, Austria, Belgium, Cyprus, Denmark, Ireland, the Federal Republic of Germany and the Western Sector of Berlin, Finland, France (including Monaco), Greece, Iceland, Italy, Liechtenstein, Luxembourg, Malta, the Netherlands, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, Turkey, the United Kingdom, Vatican City, and Yugoslavia.

(5) Afghanistan, Bangladesh, Bhutan, Burma, Hong Kong, India, Iran, Iraq, Israel, Japan, Jordan, Kuwait, Laos, Lebanon, Macao, Malaysia, Nepal, Oman, Pakistan, Qatar, Saudi Arabia, Singapore, South Korea, Sri Lanka (Ceylon), Syrian Arab Republic, Taiwan, Thailand, United Arab Emirates, and Yemen.

(6) Any colony, territory, possession, or protectorate of any country included within this paragraph; but the term shall not include the United States.

(b) The term *member of the authorized trade territory* shall mean any of the foreign countries or political subdivisions comprising the authorized trade territory.

(50 U.S.C. App. 5(b); E.O. 9193, 3 CFR 1943 Cum. Supp.; Treas. Dept. Order No. 128, 32 FR 3472)

[40 FR 19202, May 2, 1975, as amended at 41 FR 16554, Apr. 20, 1976; 42 FR 27199, May 27, 1977; 54 FR 5231, Feb. 2, 1989]

§ 500.323 Occupied area.

The term *occupied area* shall mean any territory occupied by a designated foreign country which was not occupied by such country prior to June 25, 1950.

§ 500.325 National securities exchange.

The term *national securities exchange* shall mean an exchange registered as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (48 Stat. 885, 15 U.S.C. 78f).

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§ 500.326 Custody of safe deposit boxes.

Safe deposit boxes shall be deemed to be in the *custody* not only of all persons having access thereto but also of the lessors of such boxes whether or not such lessors have access to such boxes. The foregoing shall not in any way be regarded as a limitation upon the meaning of the term *custody*.

§ 500.327 Blocked estate of a decedent.

The term *blocked estate of a decedent* shall mean any decedent's estate in which a designated national has an interest. A person shall be deemed to have an interest in a decedent's estate if he:

(a) Was the decedent;

(b) Is a personal representative; or

(c) Is a creditor, heir, legatee, devisee, distributee, or beneficiary.

§ 500.328 Status of those portions of Korea under control of the government of the Republic of Korea; and of the diplomatic and consular representatives of those countries.

(a) Those portions of Korea which are under the control of the government of the Republic of Korea are not included within the term designated foreign country.

(b) The diplomatic and consular representatives of the Republic of Korea are not deemed to be acting or purporting to act directly or indirectly for the benefit or on the behalf of any designated foreign country.

[41 FR 16554, Apr. 20, 1976, as amended at 45 FR 7224, Jan. 31, 1980]

§ 500.329 Person subject to the jurisdiction of the United States.

The term, *person subject to the jurisdiction of the United States*, includes:

(a) Any individual, wherever located, who is a citizen or resident of the United States;

(b) Any person within the United States as defined in § 500.330;

(c) Any corporation organized under the laws of the United States or of any state, territory, possession, or district of the United States; and

(d) Any corporation, partnership, or association, wherever organized or

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doing business, that is owned or controlled by persons specified in paragraph (a) or (c) of this section.

[50 FR 27436, July 3, 1985]

§ 500.330 Person within the United States.

(a) The term, *person within the United States*, includes:

(1) Any person, wheresoever located, who is a resident of the United States;

(2) Any person actually within the United States;

(3) Any corporation organized under the laws of the United States or of any state, territory, possession, or district of the United States; and

(4) Any partnership, association, corporation, or other organization, wheresoever organized or doing business, which is owned or controlled by any person or persons specified in paragraph (a) (1), (2), or (3) of this section.

(b) [Reserved]

[20 FR 1379, Mar. 8, 1955]

§ 500.331 Merchandise.

The term *merchandise* means all goods, wares and chattels of every description without limitation of any kind.

[24 FR 1984, Mar. 18, 1959]

§ 500.332 Information and informational materials.

(a) For purposes of this part, the term *informational materials* includes, without limitation:

(1) Publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

(2) To be considered informational materials, artworks must be classified under chapter subheading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The terms *information* and *informational materials* with respect to U.S. exports do not include items:

(1) That would be controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401-2420 (1979) (the "EAA"), or section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism poli-

cies of the United States, including "software" that is not "publicly available" as these terms are defined in 15 CFR parts 779 and 799.1 (1994); or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

[60 FR 8934, Feb. 16, 1995]

Subpart D—Interpretations

§ 500.401 Reference to amended sections.

Reference to any section of this chapter or to any regulation, ruling, order, instruction, direction or license issued pursuant to this chapter shall be deemed to refer to the same as currently amended unless otherwise so specified.

§ 500.402 Effect of amendment of sections of this chapter or of other orders, etc.

Any amendment, modification, or revocation of any section of this chapter or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Secretary of the Treasury pursuant to section 3(a) or 5(b) of the Trading With the Enemy Act, as amended, shall not unless otherwise specifically provided be deemed to affect any act done or omitted to be done, or any suit or proceeding had or commenced in any civil or criminal case, prior to such amendment, modification, or revocation, and all penalties, forfeitures, and liabilities under any such section, order, regulation, ruling, instruction or license shall continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 500.403 Termination and acquisition of the interest of a designated national.

(a) Except as provided in § 500.525, whenever a transaction licensed or authorized by or pursuant to this chapter results in the transfer of property (including any property interest) away from a designated national, such property shall no longer be deemed to be property in which a designated national has or has had an interest unless

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there exists in such property an interest of a designated national, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization contained in or issued pursuant to this chapter, if property (including any property interest) is transferred to a designated national such property shall be deemed to be property in which there exists the interest of a designated national.

§ 500.404 Transactions between principal and agent.

A transaction between any person within the United States and any principal, agent, home office, branch, or correspondent, outside the United States of such person is a transaction prohibited by § 500.201 to the same extent as if the parties to the transaction were in no way affiliated or associated with each other.

§ 500.405 Exportation of securities, etc. to designated foreign countries.

Section 500.201 prohibits the exportation of securities, currency, checks, drafts and promissory notes to designated foreign countries.

§ 500.406 Drafts under irrevocable letters of credit; documentary drafts.

Section 500.201 prohibits the presentation, acceptance or payment of:

(a) Drafts or other orders for payment drawn under irrevocable letters of credit issued in favor or on behalf of any designated national;

(b) Drafts or other orders for payment, in which any designated national has on or since the "effective date" had any interest, drawn under any irrevocable letter of credit; and

(c) Documentary drafts in which any designated national has on or since the "effective date" had any interest.

§ 500.407 Administration of blocked estates of decedents.

Section 500.201 prohibits all transactions incident to the administration of the blocked estate of a decedent, including the appointment and qualification of personal representatives, the collection and liquidation of assets, the payment of claims, and distribution to

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beneficiaries. Attention is directed to § 500.523 which authorizes certain transactions in connection with the administration of blocked estates of decedents and § 500.568 which authorizes the unblocking by specific license of estate assets to certain heirs under certain circumstances.

[15 FR 9040, Dec. 19, 1950, as amended at 54 FR 5231, Feb. 2, 1989]

§ 500.408 Access to certain safe deposit boxes prohibited.

Section 500.201 prohibits access to any safe deposit box within the United States in the custody of any designated national or containing any property in which any designated national has any interest or which there is reasonable cause to believe contains property in which any such designated national has any interest. Attention is directed to § 500.517 which authorizes access to such safe deposit boxes under certain conditions.

§ 500.409 Certain payments to designated foreign countries and nationals through third countries.

Section 500.201 prohibits any request or authorization made by or on behalf of a bank or other person within the United States to a bank or other person outside of the United States as a result of which request or authorization such latter bank or person makes a payment or transfer of credit either directly or indirectly to a designated national.

[18 FR 2080, Apr. 14, 1953]

§ 500.410 Currency, coins, and postage and other stamps.

Currency, coins, and postage and other stamps issued by North Korea, North Viet-Nam, Cambodia, or South Viet-Nam are merchandise of North Korean, North Vietnamese, Cambodian, or South Vietnamese origin subject to § 500.204(a)(1).

[41 FR 16554, Apr. 20, 1976]

§ 500.411 Dealings abroad in commodities subject to the Regulations.

Section 500.204 prohibits the uncensored importation into the United States of commodities of North Korean, North Vietnamese, Cambodian, or

South Vietnamese origin. It also prohibits, unless licensed, persons subject to the jurisdiction of the United States from purchasing, transporting or otherwise dealing with such commodities which are outside the United States.

[41 FR 16554, Apr. 20, 1976]

§ 500.412 Process vs. manufacture.

A commodity subject to § 500.204 remains subject howsoever it has been processed. It should not be assumed that a commodity which has undergone operations other than those listed in § 500.204(a)(1), has become a manufactured form of the commodity rather than a processed form thereof. In case of question, a ruling should be requested from the Office of Foreign Assets Control. Requests for rulings in the form of license applications or otherwise should include adequate technical detail. It should be noted that it is quite possible for merchandise to have North Korea, North Viet-Nam, Cambodia, or South Viet-Nam as its "country of origin" for Foreign Assets Control purposes while having some other country as its "country of origin" for marking or statistical purposes.

[41 FR 16554, Apr. 20, 1976]

§ 500.413 Participation in certain development projects in Vietnam.

The following examples illustrate the scope of the authorization in § 500.576 for dealings in property in which Vietnam or a Vietnamese national has an interest with respect to development projects in Vietnam formally proposed or approved for execution, funding or sponsorship by a qualified international institution listed in appendix A to this part ("Qualified Projects").

Example # 1: The Government of Vietnam ("Vietnam") approaches a U.S. financial consulting firm (the "U.S. Consulting Firm") for advice on building cement plants in Hanoi and Ho Chi Minh City. The project might be eligible for funding by the Asian Development Bank (the "ADB"), and Vietnam wants the U.S. Consulting Firm's assistance in conducting a feasibility study for submission to the ADB. Since the project has not yet been formally proposed or approved for funding by the ADB, no involvement of the U.S. Consulting Firm is authorized pursuant to § 500.576. However, had the ADB formally

proposed the project in its monthly *ADB Business Opportunities* as a project being considered for funding, or had it funded the feasibility study, § 500.576 would authorize the U.S. Consulting Firm's transactions.

Example # 2: Upon ADB approval of funding for the cement plant project, a U.S. company (the "U.S. Company") forms a joint venture with a Vietnamese company to bid on construction of the cement plants in Hanoi and Ho Chi Minh City. The joint venture's bid is successful, and it purchases construction equipment from the United States, financed by a U.S. bank and insured by a U.S. company. Several items are sourced from the United States during construction, including cement equipment, which is covered by a ten-year service and maintenance agreement. The joint venture agreement calls for the continued management and operation of the plants by the U.S. Company after completion, and for the insurance of the plants by a U.S. insurance company. Each of these transactions with respect to the Qualified Project is authorized by § 500.576.

Example # 3: The International Finance Corporation ("IFC") offers equity investment in a Vietnamese company to finance environmental safeguards for drilling operations in offshore oil fields. Various U.S. investors, including venture capital companies, brokerage firms, and investment banks contribute capital and receive shares in the Vietnamese company. This equity investment in a Qualified Project is authorized by § 500.576. The U.S. companies purchasing these shares as part of the IFC-sponsored development project may hold or resell them, including resale to other persons subject to U.S. jurisdiction. Shares acquired by entities not subject to U.S. jurisdiction may not then be purchased or repurchased by a person subject to U.S. jurisdiction.

Example # 4: (a) An Indonesian company (the "Contractor") is a successful bidder on a Qualified Project, and hires a U.S. law firm to represent it in contract negotiations with Vietnam to build a fish processing and canning facility in Vietnam funded by the World Bank. The law firm may represent the Contractor throughout the course of the project pursuant to § 500.576, once the project has been formally proposed or approved for funding by the World Bank.

(b) Once the Qualified Project is underway, the Contractor purchases equipment manufactured in France by a French company. The long-term servicing of the equipment, however, will be provided by the French company's U.S. subsidiary. The service transactions are authorized pursuant to § 500.576.

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(c) After the processing facility is completed, Vietnam hires a U.S. marketing firm to develop marketing strategies for the product worldwide. It further asks the marketing firm to execute the strategies it devises and to represent the product in South-East Asia, including the domestic market in Vietnam. The marketing firm in turn would hire the brokerage services of a U.S. citizen domiciled in Thailand for the sale of the product to that country. These transactions are outside the scope of § 500.576, and violate § 500.201, because they are not directly incident to the Qualified Project funded by the World Bank.

[58 FR 68530, Dec. 28, 1993]

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

§ 500.502 Effect of subsequent license or authorization.

No license or other authorization contained in this chapter or otherwise issued by or under the direction of the Secretary of the Treasury pursuant to section 3(a) or 5(b) of the Trading With the Enemy Act, as amended, shall be deemed to authorize or validate any transaction effected prior to the issuance thereof, unless such license or other authorization specifically so provides.

§ 500.503 Exclusion from licenses and authorizations.

The Secretary of the Treasury reserves the right to exclude from the operation of any license or from the privilege therein conferred or to restrict the applicability thereof with respect to particular persons, transactions or property or classes thereof. Such action shall be binding upon all persons receiving actual notice or constructive notice thereof.

§ 500.504 Certain judicial proceedings with respect to property of designated nationals.

(a) Subject to the limitations of paragraphs (b), (c) and (d) of this section judicial proceedings are authorized with respect to property in which on or since the “effective date” there

has existed the interest of a designated national.

(b) A judicial proceeding is authorized by this section only if it is based upon a cause of action which accrued prior to the “effective date.”

(c) This section does not authorize or license:

(1) The entry of any judgment or of any decree or order of similar or analogous effect upon any judgment book, minute book, journal or otherwise, or the docketing of any judgment in any docket book, or the filing of any judgment roll or the taking of any other similar or analogous action.

(2) Any payment or delivery out of a blocked account based upon a judicial proceeding nor does it authorize the enforcement or carrying out of any judgment or decree or order of similar or analogous effect with regard to any property in which a designated national has an interest.

(d) If a judicial proceeding relates to property in which there exists the interest of any designated national other than a person who would not have been a designated national except for his relationship to an occupied area, such proceeding is authorized only if it is based upon a claim in which no person other than any of the following has had an interest since the “effective date”:

(1) A citizen of the United States;

(2) A corporation organized under the laws of the United States or any State, territory or possession thereof, or the District of Columbia;

(3) A natural person who is and has been since the “effective date” a resident of the United States and who has not been a specially designated national;

(4) A legal representative (whether or not appointed by a court of the United States) or successor in interest by inheritance, device, bequest, or operation of law, who falls within any of the categories specified in paragraphs (d) (1), (2) and (3) of this section but only to the same extent that their principals or predecessors would be qualified by such paragraph.

§ 500.505 Certain persons unblocked.

(a) The following persons are hereby licensed as unblocked nationals:

(1) Any person resident in, or organized under the laws of a jurisdiction in, the United States or the authorized trade territory who or which has never been a designated national;

(2) Any individual resident in the United States who is not a specially designated national; and

(3) Any corporation, partnership or association that would be a designated national solely because of the interest therein of an individual licensed in paragraph (a) or (b) of this section as an unblocked national.

(b) Individual nationals of a designated country who take up residence in the authorized trade territory may apply to the Office of Foreign Assets Control to be specifically licensed as unblocked nationals.

(c) The licensing of any person as an unblocked national shall not suspend the requirements of any section of this chapter relating to the maintenance or production of records.

[50 FR 27436, July 3, 1985, as amended at 54 FR 5232, Feb. 2, 1989]

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§ 500.508 Payments to blocked accounts in domestic banks.

(a) Any payment or transfer of credit to a blocked account in a domestic bank in the name of any designated national is hereby authorized providing such payment or transfer shall not be made from any blocked account if such payment or transfer represents, directly or indirectly, a transfer of the interest of a designated national to any other country or person.

(b) This section does not authorize:

(1) Any payment or transfer to any blocked account held in a name other than that of the designated national who is the ultimate beneficiary of such payment or transfer; or

(2) Any foreign exchange transaction including, but not by way of limitation, any transfer of credit, or payment of an obligation, expressed in terms of the currency of any foreign country.

(c) This section does not authorize any payment or transfer of credit comprising an integral part of a transaction which cannot be effected without the subsequent issuance of a further license.

(d) This section does not authorize the crediting of the proceeds of the sale of securities held in a blocked account or a sub-account thereof, or the income derived from such securities, to a blocked account or sub-account under any name or designation which differs from the name or designation of the specific blocked account or sub-account in which such securities are held.

(e) This section does not authorize any payment or transfer from a blocked account in a domestic bank to a blocked account in another domestic bank held under any name or designation which differs from the name or designation of the specific blocked account or sub-account from which the payment or transfer is made.

NOTE TO § 500.508: Please refer to § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers.

[40 FR 7649, Feb. 21, 1975, as amended at 58 FR 47644, Sept. 10, 1993; 62 FR 45101, Aug. 25, 1997]

§ 500.509 Entries in certain accounts for normal service charges.

(a) Any banking institution within the United States is hereby authorized to:

(1) Debit any blocked account with such banking institution (or with another office within the United States of such banking institution) in payment or reimbursement for normal service charges owed to such banking institution by the owner of such blocked account.

(2) Make book entries against any foreign currency account maintained by it with a banking institution in any designated foreign country for the purpose of responding to debits to such account for normal service charges in connection therewith.

(b) As used in this section, the term *normal service charge* shall include charges in payment or reimbursement for interest due; cable, telegraph, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, account carrying charges, notary and protest fees, and charges for reference books, photostats, credit reports, transcripts of statements, registered mail insurance,

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stationery and supplies, check books, and other similar items.

§ 500.510 Payments to the United States, States and political subdivisions.

(a) The payment from any blocked account to the United States or any agency or instrumentality thereof or to any State, territory, district, county, municipality or other political subdivision in the United States, of customs duties, taxes, and fees payable thereto by the owner of such blocked account is hereby authorized.

(b) This section also authorizes transactions incident to the payment of customs duties, taxes, and fees from blocked accounts, such as the levying of assessment, the creation and enforcement of liens, and the sale of blocked property in satisfaction of liens for customs duties, taxes, and fees.

§ 500.511 Transactions by certain business enterprises.

(a) Except as provided in paragraphs (b), (c) and (d) of this section any partnership, association, corporation or other organization which on the "effective date" was actually engaged in a commercial, banking or financial business within the United States and which is a national of any designated foreign country, is hereby authorized to engage in all transactions ordinarily incidental to the normal conduct of its business activities within the United States.

(b) This section does not authorize any transaction which would require a license if such organization were not a national of any designated foreign country.

(c) This section does not authorize any transaction by a specially designated national.

(d) Any organization engaging in business pursuant to this section shall not engage in any transaction, pursuant to this section or any other license or authorization contained in this chapter, which, directly or indirectly, substantially diminishes or imperils the assets of such organization or otherwise prejudicially affects the financial position of such organization.

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(e) No dealings with regard to any account shall be evidence that any person having an interest therein is actually engaged in commercial, banking or financial business within the United States.

§ 500.513 Purchase and sale of certain securities.

(a) The bona fide purchase and sale of securities on a national securities exchange by banking institutions within the United States for the account, and pursuant to the authorization, of nationals of any designated foreign country and the making and receipt of payments, transfers of credit, and transfers of such securities which are necessary incidents of any such purchase or sale are hereby authorized provided the following terms and conditions are complied with:

(1) In the case of the purchase of securities, the securities purchased shall be held in an account in a banking institution within the United States in the name of the national whose account was debited to purchase such securities; and

(2) In the case of the sale of securities, the proceeds of the sale shall be credited to an account in the name of the national for whose account the sale was made and in the banking institution within the United States which held the securities of such national.

(b) This section does not authorize the crediting of the proceeds of the sale of securities held in a blocked account or a subaccount thereof, to a blocked account or subaccount under any name or designation which differs from the name or designation of the specific blocked account or subaccount in which such securities were held.

(c) Securities issued or guaranteed by the Government of the United States or any State, territory, district, county, municipality, or other political subdivision thereof (including agencies and instrumentalities of the foregoing) need not be purchased or sold on a national securities exchange, but purchases or sales of such securities shall be made at market value and pursuant to all other terms and conditions prescribed in this section.

§ 500.514 Payment of dividends and interest on and redemption and collection of securities.

(a) The payment to, and receipt by, a banking institution within the United States of funds or other property representing dividends or interest on securities held by such banking institution in a blocked account is hereby authorized provided the funds or other property are credited to or deposited in a blocked account in such banking institution in the name of the national for whose account the securities were held. Notwithstanding § 500.202, this paragraph authorizes the foregoing transactions although such securities are registered or inscribed in the name of any designated national and although the national in whose name the securities are registered or inscribed may not be the owner of such blocked account.

(b) The payment to, and receipt by, a banking institution within the United States of funds payable in respect of securities (including coupons) presented by such banking institution to the proper paying agents within the United States for redemption or collection for the account and pursuant to the authorization of nationals of any designated country is hereby authorized provided the proceeds of the redemption or collection are credited to a blocked account in such banking institution in the name of the national for whose account the redemption or collection was made.

(c) The performance of such other acts, and the effecting of such other transactions, as may be necessarily incident to any of the foregoing, are also hereby authorized.

(d) This section does not authorize the crediting of the proceeds of the redemption or collection of securities (including coupons) held a blocked account or a subaccount thereof, or the income derived from such securities to a blocked account or subaccount under any name or designation which differs from the name or designation of the specific blocked account or subaccount in which such securities were held.

(e) This section does not authorize any issuer or other obligor, with respect to a security, who is a designated national, to make any payment, transfer or withdrawal.

§ 500.515 Transfers of securities to blocked accounts in domestic banks.

(a) Transactions ordinarily incident to the transfer of securities from a blocked account in the name of any person to a blocked account in the same name in a domestic bank are hereby authorized provided such securities shall not be transferred from any blocked account if such transfer represents, directly or indirectly, a transfer of the interest of a designated national to any other country or person.

(b) This section does not authorize the transfer of securities held in a blocked account or subaccount thereof to a blocked account or subaccount under any name or designation which differs from the name or designation of the specific blocked account or subaccount in which such securities were held.

[32 FR 10846, July 25, 1967]

§ 500.516 Voting and soliciting of proxies on securities.

Notwithstanding § 500.202, the voting and the soliciting of proxies or other authorizations is authorized with respect to the voting of securities issued by a corporation organized under the laws of the United States or of any State, territory, or district thereof, in which a designated national has any interest.

§ 500.517 Access to safe deposit boxes under certain conditions.

(a) Access to any safe deposit box leased to a designated national or containing property in which any designated national has an interest, and the deposit therein or removal therefrom of any property is hereby authorized, provided the following terms and conditions are complied with:

(1) Access shall be permitted only in the presence of an authorized representative of the lessor of such box; and

(2) In the event that any property in which any designated national has any interest is to be removed from such box, access shall be permitted only in the presence of an authorized representative of a banking institution within the United States, which may be the lessor of such box, which shall

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receive such property into its custody immediately upon removal from such box and which shall hold the same in a blocked account under an appropriate designation indicating the interest therein of designated nationals.

(b) The terms and conditions set forth in paragraph (a) of this section shall not apply to access granted to a representative of the Office of Alien Property pursuant to any rule, regulation or order of such Office.

(c) The lessee or other person granted access to any safe deposit box pursuant to this section (except an agent or representative of the Office of Alien Property) shall furnish to the lessor a certificate in triplicate that he has filed or will promptly file a report with respect to such box, if leased to a designated national, and with respect to all property contained in the box to which access is had in which any designated national has an interest. The lessor shall transmit two copies of such certificate to the Treasury Department, Washington, D.C. The certificate is required only on the first access to the box. In case a report on Form TFR-603 was not made, a report is hereby required to be filed. All reports made pursuant to this section shall bear on their face or have securely attached to them a statement reading, "this report is filed pursuant to 31 CFR 500.517".

[15 FR 9040, Dec. 19, 1950, as amended at 35 FR 4045, Mar. 4, 1970]

§ 500.518 Payments for living, traveling, and similar personal expenses in the United States.

(a) Payments and transfers of credit in the United States from blocked accounts in domestic banking institutions held in the name of an individual within the United States to or upon the order of such individual are hereby authorized provided the following terms and conditions are complied with:

(1) Such payments and transfers of credit may be made only for the living, traveling, and similar personal expenses in the United States of such individual or his family; and

(2) The total of all such payments and transfers of credit made under this section from the accounts of such individual may not exceed \$250 in any one calendar month.

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(b) This section does not authorize any payment or transfer from an account in which a specially designated national has an interest.

[28 FR 6973, July 9, 1963]

§ 500.519 Limited payments from accounts of United States citizens abroad.

(a) Payments and transfers of credit from blocked accounts for expenditures within the United States or the authorized trade territory of any citizen of the United States who is within any foreign country are hereby authorized provided the following terms and conditions are complied with:

(1) Such payments and transfers shall be made only from blocked accounts in the name of, or in which the beneficial interest is held by, such citizen or his family; and

(2) The total of all such payments and transfers made under this section shall not exceed \$1,000 in any one calendar month for any such citizen or his family.

(b) This section does not authorize any remittance to any designated foreign country or, any payment, transfer, or withdrawal which could not be effected without a license by a person within the United States who is not a national of any designated foreign country.

§ 500.520 Payments from accounts of United States citizens in employ of United States in foreign countries and certain other persons.

(a) Banking institutions within the United States are hereby authorized to make all payments, transfers and withdrawals from accounts in the name of citizens of the United States while such citizens are within any foreign country in the course of their employment by the Government of the United States.

(b) Banking institutions within the United States are also hereby authorized to make all payments, transfers and withdrawals from accounts in the name of members of the armed forces of the United States and of citizens of the United States accompanying such armed forces in the course of their employment by any organization acting on behalf of the Government of the

United States while such persons are within any foreign country.

(c) This section is deemed to apply to the accounts of members of the armed forces of the United States and of citizens of the United States accompanying such armed forces in the course of their employment by the Government of the United States or by any organization acting on its behalf even though they are captured or reported missing.

§ 500.521 Certain remittances for necessary living expenses.

(a) Remittances by any person to any individual who is a resident of a foreign country and is within that foreign country are hereby authorized on the following terms and conditions:

(1) Such remittances are made only for the necessary living expenses of the payee and his household and do not exceed \$100 in any one calendar month to any one household;

(2) Such remittances are not made from a blocked account other than from an account in a banking institution within the United States in the name of, or in which the beneficial interest is held by, the payee or members of his household;

(3) Such remittances are not made from a blocked account which is blocked pursuant to Executive order 8389, as amended;

(4) If the payee is within any designated foreign country, such remittances must be made through a domestic bank and any domestic bank is authorized to effect such remittances which, however, may be effected only by the payment of the dollar amount of the remittance to a domestic bank for credit to a blocked account in the name of a banking institution within such country.

(b) This section does not authorize any remittance to, or for the benefit of, a specially designated national who is not within a designated foreign country.

(c) This section does not authorize any remittance to an individual for the purpose of defraying the expenses of a person not constituting part of his household.

(d) As used in this section, the term *household* shall mean:

(1) Those individuals sharing a common dwelling as a family; or

(2) Any individual not sharing a common dwelling with others as a family.

[28 FR 6974, July 9, 1963]

§ 500.522 Certain remittances to United States citizens in foreign countries.

(a) Remittances by any person through any domestic bank to any individual who is a citizen of the United States within any foreign country are hereby authorized and any domestic bank is authorized to effect such remittances, on the following terms and conditions:

(1) Such remittances do not exceed \$1,000 in any one calendar month to any payee and his household and are made only for the necessary living and traveling expenses of the payee and his household, except that an additional sum not exceeding \$1,000 may be remitted once to such payee if such sum will be used for the purpose of enabling the payee or his household to return to the United States;

(2) Such remittances are not made from a blocked account other than from an account in a banking institution within the United States in the name of, or in which the beneficial interest is held by, the payee or members of his household;

(3) If the payee is within any designated foreign country, such remittances must be made through a domestic bank and must be effected by the payment of the dollar amount of remittance to a domestic bank for credit to a blocked account in the name of a banking institution within such country.

(b) This section does not authorize any remittance to an individual for the purpose of defraying the expenses of a person not constituting part of his household.

(c) As used in this section, the term *household* shall mean:

(1) Those individuals sharing a common dwelling as a family; or

(2) Any individual not sharing a common dwelling with others as a family.

§ 500.523 Transactions incident to the administration of decedents' estates.

(a) The following transactions are authorized in connection with the administration of the assets in the United States of any blocked estate of a decedent:

- (1) The appointment and qualification of a personal representative;
 - (2) The collection and preservation of such assets by such personal representative and the payment of all costs, fees and charges in connection therewith; and
 - (3) The payment by such personal representative of funeral expenses and expenses of the last illness.
- (4) Any transfer of title pursuant to a valid testamentary disposition.

This paragraph does not authorize any unblocking or distribution of estate assets to a designated national.

(b) In addition to the authorization contained in paragraph (a) of this section, all other transactions incident to the administration of assets situated in the United States of any blocked estate of a decedent are authorized if:

- (1) The decedent was not a national of a designated foreign country at the time of his death;
- (2) The decedent was a citizen of the United States and a national of a designated foreign country at the time of his death solely by reason of his presence in a designated foreign country as a result of his employment by, or service with the United States Government; or
- (3) The assets are unblocked under a specific license issued pursuant to § 500.568.

(c) Any property or interest therein distributed pursuant to this section to a designated national shall be regarded for the purpose of this chapter as property in which such national has an interest and shall accordingly be subject to all the pertinent sections of this chapter. Any payment or distribution of any funds, securities or other choses in action to a designated national shall be made by deposit in a blocked account in a domestic bank or with a public officer, agency, or instrumentality designated by a court having jurisdiction of the estate. Any such de-

posit shall be made in one of the following ways:

- (1) In the name of the national who is the ultimate beneficiary thereof;
 - (2) In the name of a person who is not a national of a designated foreign country in trust for the national who is the ultimate beneficiary; or
 - (3) Under some other designation which clearly shows the interest therein of such national.
- (d) Any distribution of property authorized pursuant to this section may be made to a trustee of any testamentary trust or to the guardian of an estate of a minor or of an incompetent.
- (e) This section does not authorize:

- (1) Any designated national to act as personal representative or co-representative of any estate;
- (2) Any designated national to represent, directly or indirectly, any person who has an interest in an estate;
- (3) Any designated national to take distribution of any property as the trustee of any testamentary trust or as the guardian of an estate of a minor or of an incompetent; or
- (4) Any transaction which could not be effected if no designated national had any interest in such estate.

(f) Any payment or distribution authorized by this section may be deposited in a blocked account in a domestic bank or with a public officer, agency, or instrumentality designated by the court having jurisdiction of the estate in one of the ways prescribed in paragraphs (c) (1), (2) or (3) of this section, but this section does not authorize any other transaction directly or indirectly at the request, or upon the instructions of any designated national.

[15 FR 9040, Dec. 19, 1950, as amended at 54 FR 5232, Feb. 2, 1989]

§ 500.524 Payment from, and transactions in the administration of certain trusts and estates.

(a) Any bank or trust company incorporated under the laws of the United States, or of any State, territory, possession, or district of the United States, or any private bank subject to supervision and examination under the banking laws of any State of the United States, acting as trustee of a trust created by gift, donation or bequest and administered in the United

States, or as legal representative of an estate of an infant or incompetent administered in the United States, in which trust or estate one or more persons who are designated nationals have an interest, beneficial or otherwise, or are co-trustees or co-representatives, is hereby authorized to engage in the following transactions:

(1) Payments of distributive shares of principal or income to all persons legally entitled thereto upon the condition prescribed in paragraph (b) of this section.

(2) Other transactions arising in the administration of such trust or estate which might be engaged in if no national of a designated foreign country were a beneficiary, co-trustee or co-representative of such trust or estate upon the condition prescribed in paragraph (b) of this section.

(b) Any payment or distribution of any funds, securities or other choses in action to a national of a designated foreign country under this section shall be made by deposit in a blocked account in a domestic bank in the name of the national who is the ultimate beneficiary thereof.

(c) Any payment or distribution into a blocked account in a domestic bank in the name of any such national of a designated foreign country who is the ultimate beneficiary of and legally entitled to any such payment or distribution is authorized by this section, but this section does not authorize such trustee or legal representative to engage in any other transaction at the request, or upon the instructions, of any beneficiary, co-trustee or co-representative of such trust or estate or other person who is a national of any designated foreign country.

(d) The application of this section to trusts is limited to trusts established by gift, donation, or bequest from individuals or entities to benefit specific heirs, charitable causes, and similar beneficiaries. This section does not apply to trusts established for business or commercial purposes, such as sinking funds established by an insurer of securities in order to secure payment of interest or principal due on such securities.

[15 FR 9040, Dec. 19, 1950, as amended at 54 FR 5232, Feb. 2, 1989]

§ 500.525 Certain transfers by operation of law.

(a) The following transfers by operation of law are hereby authorized:

(1) Any transfer of any dower, curtesy, community property, or other interest of any nature whatsoever provided that such transfer arises solely as a consequence of the existence or change of marital status;

(2) Any transfer to any person by intestate succession.

(3) Any transfer to any person as administrator, executor, or other fiduciary by reason of any testamentary disposition; and

(4) Any transfer to any person as administrator, executor, or fiduciary by reason of judicial appointment or approval in connection with any testamentary disposition or intestate succession.

(b) Except to the extent authorized by § 500.523, § 500.568 or by any other license or authorization contained in or issued pursuant to this chapter no transfer to any person by intestate succession and no transfer to any person as administrator, executor, or other fiduciary by reason of any testamentary disposition, and no transfer to any person as administrator, executor, or fiduciary by reason of judicial appointment or approval in connection with any testamentary disposition or intestate succession shall be deemed to terminate the interest of the decedent in the property transferred if the decedent was a designated national.

(c) This section does not authorize any dealings in property by any person.

[25 FR 1910, Mar. 4, 1960, as amended at 54 FR 5232, Feb. 2, 1989]

§ 500.526 Transactions involving blocked life insurance policies.

(a) The following transactions are hereby authorized:

(1) The payment of premiums and interest on policy loans with respect to any blocked life insurance policy;

(2) The issuance, servicing or transfer of any blocked life insurance policy in which the only blocked interest is that of one or more of the following:

(i) A member of the armed forces of the United States or a person accompanying such forces (including personnel of the American Red Cross, and similar organizations);

(ii) An officer or employee of the United States; or

(iii) A citizen of the United States resident in a designated foreign country; and

(3) The issuance, servicing or transfer of any blocked life insurance policy in which the only blocked interest (other than that of a person specified in paragraph (a) (2) of this section) is that of a beneficiary.

(b) Paragraph (a) of this section does not authorize:

(1) Any payment to the insurer from any blocked account except a blocked account of the insured or beneficiary, or

(2) Any payment by the insurer to a national of a designated foreign country unless payment is made by deposit in a blocked account in a domestic bank in the name of the national who is the ultimate beneficiary thereof.

(c) The application, in accordance with the provisions of the policy or the established practice of the insurer, of the dividends, cash surrender value, or loan value, of any blocked life insurance policy is also hereby authorized for the purposes of:

(1) Paying premiums;

(2) Paying policy loans and interest thereon;

(3) Establishing paid-up insurance; or

(4) Accumulating such dividends or values to the credit of the policy on the books of the insurer.

(d) As used in this section:

(1) The term *blocked life insurance policy* shall mean any life insurance policy or annuity contract, or contract supplementary thereto, in which there is a blocked interest.

(2) Any interest of a national of a designated foreign country shall be deemed to be a "blocked interest."

(3) The term *servicing* shall mean the following transactions with respect to any blocked life insurance policy:

(i) The payment of premiums, the payment of loan interest, and the repayment of policy loans;

(ii) The effecting by a life insurance company or other insurer of loans to an insured;

(iii) The effecting on behalf of an insured of surrenders, conversions, modifications, and reinstatements; and

(iv) The exercise or election by an insured of non-forfeiture options, optional modes of settlement, optional disposition of dividends, and other policy options and privileges not involving payment by the insurer.

(4) The term *transfer* shall mean the change of beneficiary, or the assignment or pledge of the interest of an insured in any blocked life insurance policy subsequent to the issuance thereof.

(e) This section does not authorize any transaction with respect to any blocked life insurance policy issued by a life insurance company or other insurer which is a national of a designated foreign country or which is not doing business or effecting insurance in the United States.

§ 500.527 Certain transactions with respect to United States patents, trademarks, and copyrights.

(a) There are hereby authorized:

(1) The filing in the United States Patent Office of applications for letters patent and for trademarks registration;

(2) The making and filing in the United States Copyright Office of applications for registration or renewal of copyrights;

(3) The prosecution in the United States Patent Office of applications for letters patent and for trademarks registration;

(4) The receipt of letters patent or trademark registration certificates or copyright registration or renewal certificates granted pursuant to any such applications in which any designated national has at any time on or since the "effective date" had any interest.

(b) This section further authorizes, subject to the terms and conditions prescribed in paragraphs (c) and (d) of this section, the execution and recording of any instrument recordable in the United States Patent Office or the United States Copyright Office which affects title to or grants any interest in, including licenses under, any

United States letters patent, trademark registration, copyright or renewal thereof, or application therefor, in which a designated national, who is such a national solely by reason of his relationship to an occupied area, has at any time on or since the “effective date” had any interest, or which constitutes or evidences a transaction made by, or on behalf of, or pursuant to the direction of or with such a designated national, or if any of the parties to such instrument is such a designated national.

(c) Any such instrument the recording or the execution and recording of which is authorized by paragraph (b) of this section shall be recorded in the United States Patent Office or in the United States Copyright Office within ninety days of the date of execution thereof or ninety days from the “effective date” whichever is the longer period, or within such further time as may be allowed by the Secretary of the Treasury. The person presenting such instrument for recording shall file therewith in the United States Patent Office or United States Copyright Office a statement that such instrument is being recorded in accordance with the provisions of this section.

(d) Any such instrument the recording or the execution and recording of which is authorized by paragraph (b) of this section may be set aside by the Secretary of the Treasury at any time within a period of three years from the date of recording except that the Secretary of the Treasury may in his discretion reduce such period of time with respect to any such instrument after the recording thereof, and further, the patents, trademarks, interests, applications, or rights thereunder so transferred may be vested by the Secretary of the Treasury.

(e) This section also authorizes the payment from blocked accounts or otherwise, of fees currently due to the United States Government in connection with any transactions authorized by this section.

(f) This section further authorizes the payment from blocked accounts or otherwise of the reasonable and customary fees and charges currently due to attorneys or representatives within the United States in connection with

the transactions referred to in paragraphs (a), (b), and (e) of this section, provided that such payment shall not exceed (1) \$100 for the preparation, filing, and prosecution of any letters patent; or (2) \$50 for the preparation, filing and prosecution of any application for a trademark registration; or (3) \$25 for the securing and registration of any copyright; or (4) \$35 for the preparation and filing of any amendment to a pending application for letters patent or for a trademark registration.

(g) This section also authorizes the payment of a nominal consideration not exceeding one dollar, to any party to an instrument executed or recorded hereunder with respect to the property affected by such instrument, as long as such instrument is subject to being set aside in accordance with paragraph (d) of this section.

§ 500.528 Certain transactions with respect to blocked foreign patents, trademarks and copyrights authorized.

(a) The following transactions by any person who is not a designated national are hereby authorized:

(1) The filing and prosecution of any application for a blocked foreign patent, trademark or copyright, or for the renewal thereof;

(2) The receipt of any blocked foreign patent, trademark or copyright;

(3) The filing and prosecution of opposition or infringement proceedings with respect to any blocked foreign patent, trademark, or copyright, and the prosecution of a defense to any such proceedings;

(4) The payment of fees currently due to the government of any foreign country, either directly or through an attorney or representative, in connection with any of the transactions authorized by paragraphs (a) (1), (2) and (3) of this section or for the maintenance of any blocked foreign patent, trademark or copyright; and

(5) The payment of reasonable and customary fees currently due to attorneys or representatives in any foreign country incurred in connection with any of the transactions authorized by paragraphs (a) (1), (2), (3) or (4) of this section.

(b) Payments effected pursuant to the terms of paragraphs (a) (4) and (5) of this section may not be made from any blocked account.

(c) As used in this section the term *blocked foreign patent, trademark, or copyright* shall mean any patent, petty patent, design patent, trademark or copyright issued by any foreign country, in which a designated foreign country or national thereof has an interest, including any patent, petty patent, design patent, trademark, or copyright issued by a designated foreign country.

[15 FR 9040, Dec. 19, 1950, as amended at 50 FR 27437, July 3, 1985]

§ 500.529 Powers of attorney.

(a) No power of attorney, whether granted before or after the “effective date” shall be invalid by reason of any of the provisions of this chapter with respect to any transaction licensed by or pursuant to the provisions of this chapter.

(b) This section does not authorize any transaction pursuant to a power of attorney if such transaction is prohibited by § 500.201 and is not otherwise licensed or authorized by or pursuant to this chapter.

(c) This section does not authorize the creation of any power of attorney in favor of any person outside of the United States or the exportation from the United States of any power of attorney.

§ 500.530 Exportation of powers of attorney or instructions relating to certain types of transactions.

(a) The exportation to any foreign country of powers of attorney or other instruments executed or issued by any person within the United States who is not a national of a designated foreign country, which are limited to authorizations or instructions to effect transactions incident to the following, are hereby authorized upon the condition prescribed in paragraph (b) of this section:

(1) The representation of the interest of such person in a decedent’s estate which is being administered in any designated foreign country and the collection of the distributive share of such person in such estate;

(2) The maintenance, preservation, supervision or management of any property located in any designated foreign country in which such person has an interest; and

(3) The conveyance, transfer, release, sale or other disposition of any property specified in paragraph (a)(1) of this section or any real estate or tangible personal property if the value thereof does not exceed the sum of \$5,000 or its equivalent in foreign currency.

(b) No instrument which authorizes the conveyance, transfer, release, sale or other disposition of any property may be exported under this section unless it contains an express stipulation that such authority may not be exercised if the value of such property exceeds the sum of \$5,000 or the equivalent thereof in foreign currency.

(c) As used in this section, the term “tangible personal property” shall not include cash, bullion, deposits, credits, securities, patents, trademarks, or copyrights.

§ 500.533 Exportations, reexportations, and incidental transactions.

(a) All transactions ordinarily incident to the exportation of goods, software, or technology (including technical data) from the United States or reexportation of U.S.-origin goods, software, or technology from a foreign country to any person in a designated foreign country or to the government of a designated foreign country, are hereby authorized, provided that the exportation or reexportation is licensed or otherwise authorized by the Department of Commerce under the Export Administration Regulations (15 CFR parts 730-799).

(b) The general license does not authorize the financing of any transaction from a blocked account.

NOTE TO § 500.533: See note to § 500.586(b).

[65 FR 38165, June 19, 2000]

§ 500.535 Exchange of certain securities.

(a) Subject to the limitations and conditions of paragraph (b) of this section and notwithstanding § 500.202 of this chapter, any banking institution within the United States is authorized to engage in the following transactions

with respect to securities listed on a national securities exchange, including the withdrawal of such securities from blocked accounts:

(1) Exchange of certificates necessitated by reason of changes in corporate name, par value or capitalization,

(2) Exchanges of temporary for permanent certificates,

(3) Exchanges or deposits under plans of reorganization,

(4) Exchanges under refunding plans, or

(5) Exchanges pursuant to conversion privileges accruing to securities held.

(b) This section does not authorize the following transactions:

(1) Any exchange of securities unless the new securities and other proceeds, if any, received are deposited in the blocked account in which the original securities were held immediately prior to the exchange.

(2) Any exchange of securities registered in the name of any designated national, unless the new securities received are registered in the same name in which the securities exchanged were registered prior to the exchange.

(3) Any exchange of securities issued by a person engaged in the business of offering, buying, selling, or otherwise dealing, or trading in securities, or evidences thereof, issued by another person.

(4) Any transaction with respect to any security by an issuer or other obligor who is a designated national.

[16 FR 767, Jan. 27, 1951]

§ 500.536 Certain transactions with respect to merchandise affected by § 500.204.

(a) With respect to merchandise the importation of which is prohibited by § 500.204, all Customs transactions are authorized except the following:

(1) Entry for consumption (including any appraisement entry, any entry of goods imported in the mails, regardless of value, and any other informal entries);

(2) Entry for immediate exportation;

(3) Entry for transportation and exportation;

(4) Withdrawal from warehouse;

(5) Transfer or withdrawal from a foreign-trade zone; or

(6) Manipulation or manufacture in a warehouse or in a foreign-trade zone.

(b) Paragraph (a) of this section is intended solely to allow certain restricted disposition of merchandise which is imported without proper authorization. Paragraph (a) does not authorize the purchase or importation of any merchandise.

(c) The purchase outside the United States for importation into the United States of merchandise specified in § 500.204 (other than merchandise to which § 500.204(a)(1) is applicable) and the importation of such merchandise into the United States (including transactions listed in paragraph (a) of this section) are authorized if there is presented to the collector of customs in connection with such importation the original of an appropriate certificate of origin as defined in paragraph (d) of this section and provided that the merchandise was shipped to the United States directly, or on a through bill of lading, from the country issuing the appropriate certificate of origin.

(d) A certificate of origin is appropriate for the purposes of this section only if:

(1) It is a certificate of origin the availability of which for Foreign Assets Control purposes has been announced in the FEDERAL REGISTER by the Office of Foreign Assets Control; and

(2) It bears a statement by the issuing agency referring to the Foreign Assets Control Regulations and stating that the certificate has been issued under procedures agreed upon with the United States Government.

[18 FR 2080, Apr. 14, 1953, as amended at 19 FR 5483, Aug. 27, 1954; 20 FR 1379, Mar. 8, 1955; 40 FR 7649, Feb. 21, 1975; 50 FR 5753, Feb. 12, 1985; 54 FR 5232, Feb. 2, 1989]

§ 500.549 Proof of origin.

Specific licenses for importation of goods the origin of which is North Korea, North Viet-Nam, Cambodia, or South Viet-Nam are generally not issued unless the applicant submits satisfactory documentary proof of the location of the goods outside North Korea, North Viet-Nam, Cambodia, or South Viet-Nam prior to the applicable effective date and of the absence of any interest of North Korea, North Viet-

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Nam, Cambodia, or South Viet-Nam in the goods at all times on or since that date. Since the type of documents which would constitute satisfactory proof varies depending upon the facts of the particular case, it is not possible to state in advance the type of documents required. However, it has been found that affidavits, statements, invoices, and other documents prepared by manufacturers, processors, sellers or shippers cannot be relied on and are therefore not by themselves accepted by the Office of Foreign Assets Control as satisfactory proof of origin. Independent corroborating documentary evidence, such as insurance documents, bills of lading, etc., may be accepted as satisfactory proof.

[41 FR 16555, Apr. 20, 1976]

§ 500.550 Transactions related to information and informational materials.

(a) All financial and other transactions directly incident to the importation or exportation of information or informational materials as defined in § 500.332 of this part are authorized.

(b) Transactions relating to the dissemination of information or informational materials are authorized, including remittance of royalties paid for information or informational materials that are reproduced, translated, subtitled, or dubbed. This section does not authorize the remittance of royalties or other payments relating to works not yet in being, or for marketing and business consulting services, or artistic or other substantive alteration or enhancements to information or informational materials, as provided in § 500.206(c).

[54 FR 5232, Feb. 2, 1989, as amended at 60 FR 8934, Feb. 16, 1995]

§ 500.551 Reimports.

Specific licenses are issued for reimportation of merchandise subject to § 500.204 on proof of the export of the identical merchandise from the United States. Persons planning to export any such merchandise for exhibition, repair, or for any other purpose should first ascertain that reimportation will be authorized. Generally, reimportation is authorized only if Customs

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Form 4455 was completed at the time of export.

[40 FR 7650, Feb. 21, 1975]

§ 500.552 Research samples.

Specific licenses are issued for importation of commodities subject to § 500.204 for bona fide research purposes in sample quantities only.

[40 FR 7650, Feb. 21, 1975]

§ 500.553 Prior contractual commitments not a basis for licensing.

Specific licenses are not issued on the basis that an unlicensed firm commitment or payment has been made in connection with a transaction prohibited by § 500.204. Contractual commitments to engage in transactions subject to the prohibitions in § 500.204 should not be made, unless the contract specifies that the transaction is authorized by a general license or that it is subject to the issuance of a specific Foreign Assets Control license.

[40 FR 7650, Feb. 21, 1975]

§ 500.554 Gifts of North Korean, North Vietnamese, Cambodian, or South Vietnamese origin.

(a) Except as stated in paragraph (b) of this section and in § 500.550, specific licenses are not issued for the importation of North Korean, North Vietnamese, Cambodian, or South Vietnamese origin goods sent as gifts to persons in the United States or acquired abroad as gifts by persons entering the United States. However, licenses are issued, upon request, for the return of such goods to the donors in countries other than North Korea, North Viet-Nam, Cambodia, or South Viet-Nam.

(b) Specific licenses are issued for the importation directly from North Korea, North Viet-Nam, Cambodia, or South Viet-Nam:

(1) Of goods which are claimed by the importer to have been sent as a bona fide gift and

(2) Of goods which are claimed to have been acquired in North Korea, North Viet-Nam, Cambodia, or South Viet-Nam as a bona fide gift, subject to the conditions that:

(i) The goods are of small value, and

(ii) There is no reason to believe that there is, or has been since the applicable effective date, any direct or indirect financial or commercial benefit to North Korea, North Viet-Nam, Cambodia, or South Viet-Nam or nationals thereof from the importation.

[41 FR 16555, Apr. 20, 1976]

§ 500.556 Joint bank accounts.

Specific licenses are issued unblocking a portion of or all of a blocked joint bank account where a non-blocked applicant claims beneficial ownership, as follows:

(a) *Joint bank account, without survivorship provisions.* Specific licenses are issued unblocking only that amount with respect to which the applicant is able to prove beneficial ownership by documentary evidence independent of his assertions of interest.

(b) *Joint bank account, with survivorship provision.* Specific licenses are issued unblocking an amount equivalent to that portion of the total amount to which the applicant would be entitled if the total were divided evenly among the persons in whose names the account is held (e.g. 50 percent where there are two names; 33⅓ percent where there are three names). Such licenses are issued on the basis of applicant's assertions of beneficial ownership interest without the requirement of independent evidence.

[40 FR 7650, Feb. 21, 1975]

§ 500.557 Proceeds of insurance policies.

(a) Specific licenses are issued authorizing payment of the proceeds of blocked life insurance policies issued on the life of a North Korean, North Vietnamese, Cambodian, or South Vietnamese national, who died in one of those countries after the applicable effective date to certain beneficiaries licensed as unblocked nationals pursuant to § 500.505, as follows:

(1) The applicant is a permanent resident of the United States or the authorized trade territory and is not a specially designated national; and

(2) No interest on the part of a designated national not licensed as an unblocked national exists in that por-

tion of the funds to which the applicant is entitled.

(b) Applications for specific licenses under this section must include all of the following information:

(1) Proof of permanent residence in the United States or the authorized trade territory, to be established by the submission of documentation issued by relevant government authorities that must include at least two of the following documents:

- (i) Passport;
- (ii) Voter registration card;
- (iii) Permanent resident alien card; or
- (iv) National identity card.

Other documents tending to show residency, such as income tax returns, may also be submitted in support of government documentation, but will not suffice in and of themselves; and

(2) Proof of entitlement under the insurance policy to be established by a copy of the policy and an affidavit from an appropriate officer of a recognized insurance company acknowledging the legitimacy of the beneficiary's claim and the amount of the payment.

(c) Any document provided pursuant to this section that is not written in the English language must be accompanied by a translation into English, as well as a certification by the translator that he is not an interested party to the proceeding, is qualified to make the translation, and has made an accurate translation of the document in question.

[54 FR 5232, Feb. 2, 1989]

§ 500.558 Accounts of blocked partnerships.

Specific licenses are issued unblocking partnerships established under the laws of North Korea, North Viet-Nam, Cambodia, or South Viet-Nam, as follows:

(a) Where all of the general partners and limited partners, if any, have emigrated from North Korea, North Viet-Nam, Cambodia, or South Viet-Nam and have established residence in the United States or in a country in the authorized trade territory, specific licenses are issued unblocking the assets of the partnership after deducting the total debt due creditors wherever located.

(b) Where one or more partners, whether general or limited, is in North Korea, North Viet-Nam, Cambodia, or South Viet-Nam (or elsewhere but still blocked), specific licenses are issued unblocking only the net pro rata shares of those partners who are resident in the United States or in a country in the authorized trade territory after deducting the total debt due creditors wherever located.

(c) The issuance of licenses is conditioned on the applicant furnishing the following information:

(1) Detailed information as to the status of all debts and other obligations of the blocked partnership, specifying the citizenship and residence of each creditor as of the applicable effective date, and as of the date of the application;

(2) The current status of the blocked partnership e.g., liquidated, nationalized, inoperative, etc.;

(3) A detailed description of all the partnership's assets, wherever located; and,

(4) A list of all partners, indicating whether they are general, limited, etc. and giving their citizenship and residence as of the applicable effective date and as of the date of filing of the application.

[40 FR 7651, Feb. 21, 1975, as amended at 41 FR 16555, Apr. 20, 1976; 45 FR 7225, Jan. 31, 1980]

§ 500.559 Accounts of North Korean, North Vietnamese, Cambodian or South Vietnamese sole proprietorships.

Specific licenses are issued unblocking sole proprietorships established under the laws of North Korea, North Viet-Nam, Cambodia, or South Viet-Nam if the proprietor has emigrated from those countries and established residence in the United States or a country in the authorized trade territory. Such licenses do not unblock any indebtedness of the proprietorship due to persons in North Korea, North Viet-Nam, Cambodia, or South Viet-Nam.

[41 FR 16556, Apr. 20, 1976, as amended at 45 FR 7225, Jan. 31, 1980]

§ 500.560 Bank accounts of official representatives of foreign governments in North Korea, North Viet-Nam, Cambodia, or South Viet-Nam.

Specific licenses are issued authorizing payments from accounts of official representatives of foreign governments in North Korea, North Viet-Nam, Cambodia, or South Viet-Nam for transactions which are not inconsistent with the purposes of any of the regulations in this chapter.

[41 FR 16556, Apr. 20, 1976, as amended at 45 FR 7225, Jan. 31, 1980]

§ 500.561 Transfers of abandoned property under State laws.

(a) Except as stated in paragraphs (b) and (c) of this section, specific licenses are not issued authorizing the transfer of blocked property to State agencies under State laws governing abandoned property.

(b) Specific licenses are issued authorizing the transfer of blocked property, pursuant to the laws of the State governing abandoned property, to the appropriate State agency. *Provided*, That the State's laws are custodial in nature, *i.e.*, there is no permanent transfer of beneficial interest to the State. Licenses require the property to be held by the State in accounts which are identified as blocked under the regulations. A separate index of these blocked assets is required to be maintained by the State agency. The requirements of this section for identification and separate indexing of blocked assets apply to all blocked assets held by State agencies and any licenses issued prior to the effective date of this section hereby are amended by the incorporation of such requirements.

(c) To be eligible for a specific license under this section, the state agency must demonstrate that it has the statutory authority under appropriate state law to comply with the requirements of § 500.205. Such a showing shall include an opinion of the State Attorney General that such statutory authority exists.

[44 FR 11767, Mar. 2, 1979, as amended at 50 FR 27437, July 3, 1985]

§ 500.562 [Reserved]**§ 500.563 Transactions incident to travel to and within North Korea.**

(a) All transactions of persons subject to U.S. jurisdiction, including travel service providers, ordinarily incident to travel to, from, and within North Korea and to maintenance within North Korea are authorized. This authorization extends to transactions with North Korean carriers and those involving group tours, payment of living expenses, the acquisition of goods in North Korea for personal use, and normal banking transactions involving currency drafts, charge, debit or credit cards, traveler's checks, or other financial instruments negotiated incident to personal travel.

(b) The purchase of merchandise in North Korea by persons subject to U.S. jurisdiction, and importation as accompanied baggage, is limited to goods with a foreign market value not to exceed \$100 per person for personal use only. Such merchandise may not be resold. This authorization may be used only once in every six consecutive months. As provided in § 500.206 of this part, information and informational materials are exempt from this restriction.

(c) This section does not authorize any debit to a blocked account.

[60 FR 8935, Feb. 16, 1995]

§ 500.564 [Reserved]**§ 500.565 Family remittances to nationals of Vietnam and Cambodia.**

(a) The remittances specified in this section are authorized to be made to any close relative of the remitter or of the remitter's spouse, provided that the relative is a national of Vietnam or Cambodia, is a resident of Vietnam, Cambodia, or a country to which private remittances to nationals are not generally prohibited pursuant to this chapter, and is not a specially designated national.

(b) Remittances made pursuant to this section may be made only as follows:

(1) For the support of the payee, or for the support of the payee and members of his household, in amounts not exceeding \$300 in any consecutive 3-

month period to any one payee or to any household; and

(2) For the purpose of enabling the payee to emigrate from Vietnam or Cambodia, in an amount not exceeding \$750, to be made only once to any one payee, provided that the payee is a resident of and within Vietnam or Cambodia.

(c) The term *close relative* used with respect to any person means spouse, child, grandchild, parent, grandparent, uncle, aunt, brother, sister, nephew, niece or spouse, widow, or widower of any of the foregoing.

(d) The term *member of a household* used with respect to any person means a close relative sharing a common dwelling with such person.

(e) This section does not authorize remittances from blocked accounts.

(f) Specific licenses may be issued authorizing a U.S. financial institution to establish direct correspondent banking relations with a Vietnamese or Cambodian bank or banks for the sole purpose of facilitating the remittance of funds authorized by this section.

[56 FR 20349, May 3, 1991]

§ 500.566 Certain transactions authorized on behalf of North Korean nationals incident to their travel and maintenance expenses.

(a) Except as provided in paragraph (b) of this section, the following transactions are authorized by or on behalf of a national of North Korea who enters the United States on a visa issued by the Department of State:

(1) All transactions ordinarily incident to travel to, from, and within the United States are authorized, including the importation into the United States of accompanied baggage for personal use;

(2) All transactions ordinarily incident to travel and maintenance within the United States, including payment of living expenses and the acquisition of goods in the United States for personal use; and

(3) Normal banking transactions involving foreign currency drafts, traveler's checks, or other instruments negotiated incident to personal travel in the United States,

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(b) This section does not authorize any debit to a blocked account.

(Sec. 5, 40 Stat. 415, as amended, 50 U.S.C. App. 5(b); 75 Stat. 445, 22 U.S.C. 2370(a); Proc. 3447, 27 FR 1065, 3 CFR, 1959-1963 Comp.; E.O. 9193, 7 FR 5205, 3 CFR, Cum. Supp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943-1948 Comp., p. 748)

[49 FR 24994, June 19, 1984, as amended at 55 FR 31179, Aug. 1, 1990; 58 FR 63084, Nov. 30, 1993; 60 FR 8935, Feb. 16, 1995]

§ 500.567 U.S. assets of certain designated country corporations.

(a) Specific licenses may be issued unblocking the net pro rata shares of individuals who are permanent residents of the United States or the authorized trade territory, and who are not specially designated nationals, in U.S.-located assets of corporations formed under the laws of countries designated in this part, after deducting the total debt due creditors for claims that accrued prior to the effectiveness date, in cases where all of the following conditions are met:

(1) The assets were owned by, or accrued to, the corporation before the effective date of the regulations;

(2) The corporation did not carry on substantial business in the designated country under the management or control of the applicant(s) after the effective date;

(3) In cases where the blocked assets purportedly have been nationalized by the designated country, compensation has not been paid to the applicant(s).

(b) Applications for specific licenses under this section must include all of the following information:

(1) A detailed description of the corporation, its by-laws, activities, distribution of shares, and its current status;

(2) Proof of the permanent residence of the applicant(s) in the United States or the authorized trade territory.

(3) A list of all officers, directors and shareholders of the corporation, giving the citizenship and the residence of each person as of the date of application;

(4) A detailed description of all of the assets of the corporation, wherever located, including a statement of all known encumbrances or claims against them; and

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(5) Detailed information regarding the status of all debts and other obligations of the corporation, specifying the citizenship and residence of each creditor on the effective date and on the date of the application.

[50 FR 33720, Aug. 21, 1985]

§ 500.568 U.S. assets of blocked decedents.

(a) Specific licenses may be issued unblocking the net pro rata shares of certain heirs of designated nationals in U.S.-located estate assets, after deducting the total debt due creditors for claims that accrued prior to the effective date, in cases where all of the following conditions are met:

(1) The applicant is a permanent resident of the United States or the authorized trade territory and is not a specially designated national; and

(2) No interest on the part of a designated national not licensed as an unblocked national pursuant to § 500.505 exists in that portion of the assets to which the applicant is entitled.

(b) Applications for specific licenses under this section must include all of the following information:

(1) Proof of permanent residence in the United States or the authorized trade territory, to be established by the submission of documentation issued by relevant government authorities that must include at least two of the following documents:

(i) Passport;

(ii) Voter registration card;

(iii) Permanent resident alien card; or

(iv) National identity card. Other documents tending to show residency, such as income tax returns, may also be submitted in support of government documentation, but will not suffice in and of themselves;

(2) Proof of death of the designated national to be established by a death certificate;

(3) Proof of heirship, to be established by a copy of the decedent's duly executed will certified by a probate court, a court decree determining the heirs, or, failing the availability of such documents, copies of certificates establishing the relationship of the heir to the deceased, *e.g.*, birth or marriage certificates; and

(4) A description of the assets involved, including interest due on blocked funds since April 1, 1979, the name and address of the institution in which the assets are held, the account or safe deposit box number, the name in which the assets are held and a statement of all known encumbrances or claims against them.

(c) Any document provided pursuant to this section that is not written in the English language must be accompanied by a translation into English, as well as a certification by the translator that he is not an interested party to the proceeding, is qualified to make the translation, and has made an accurate translation of the document in question.

[54 FR 5232, Feb. 2, 1989]

§ 500.569 [Reserved]

§ 500.570 Cambodian property unblocked.

All transactions otherwise prohibited by this part which involve property in which Cambodia or a national thereof has an interest, other than property blocked in the name of the Exchange Support Fund for the Khmer Republic, are authorized.

[59 FR 60559, Nov. 25, 1994]

§ 500.571 Transactions related to telecommunications authorized.

All transactions of U.S. common carriers incident to the receipt or transmission of telecommunications involving North Korea are authorized.

NOTE: Exports or reexports to North Korea of goods and technical data, or of the direct products of technical data (regardless of U.S. content), not prohibited by this part may require authorization from the U.S. Department of Commerce pursuant to the Export Administration Regulations, 15 CFR parts 768-799.

[57 FR 58986, Dec. 14, 1992, as amended at 60 FR 8935, Feb. 16, 1995]

§ 500.572 Humanitarian projects authorized.

(a) All transactions by non-governmental organizations incident to carrying out humanitarian projects in Vietnam are authorized. For purposes of this section, the term "non-governmental organization" shall mean any

private voluntary organization accorded tax exempt status under § 501(c)(3) of the Internal Revenue Code, as well as any other organization engaged in voluntary charitable assistance activities that receives funding from private sources, including but not limited to accredited degree-granting institutes of education, private foundations and research institutions.

(b) The non-governmental organization carrying out humanitarian projects in Vietnam pursuant to this authorization shall file an initial report within 10 business days after the formal commencement of U.S. activities on the project with the Office of Foreign Assets Control, Compliance Division, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW.—Annex, Washington, DC 20220, stating:

(1) The name, address, and telephone number of the non-governmental organization, and the officer charged with supervision of the project in Vietnam; and

(2) The nature, scope, purpose, and location of the project in Vietnam.

[57 FR 20766, May 15, 1992]

§ 500.573 Certain donations of funds and goods to meet basic human needs authorized.

(a) The donation of funds for the purpose of contributing to the provision of humanitarian assistance to victims of natural disasters in North Korea is authorized, provided that such donations may only be made through the United Nations, related UN programs and specialized agencies, the American Red Cross and the International Committee of the Red Cross.

(b) With respect to transactions not within the scope of the general license contained in § 500.533 of this part, all transactions incident to the donation to North Korea of goods to meet basic human needs are authorized. For purposes of this section, *goods to meet basic human needs* shall be defined by reference to the Humanitarian License Procedure set forth in 15 CFR 773.5 (c) and (d) and supplement no. 7 to part 773 of the Export Administration Regulations.

NOTE: Exports from the United States to North Korea or reexports to North Korea of

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U.S.-origin goods, or foreign goods containing U.S.-origin content or produced from U.S.-origin technical data, to meet basic human needs in North Korea may require authorization from the U.S. Department of Commerce.

[61 FR 9344, Mar. 8, 1996]

§ 500.574 Executory contracts and related transactions authorized.

(a) *Executory contracts.* (1) Persons subject to U.S. jurisdiction are authorized to enter into executory contracts with Vietnam or Vietnamese nationals, or executory contracts in which Vietnam or a Vietnamese national has an interest, the performance of which is contingent upon the lifting or modification of the embargo on Vietnam to permit such performance.

(2) Within 10 business days of signing an executory contract authorized pursuant to paragraph (a) of this section, the person subject to U.S. jurisdiction must file a copy of the contract with the Office of Foreign Assets Control, Compliance Programs Division, 1500 Pennsylvania Avenue, NW.—Annex 2131, Washington, DC 20220, referencing the fact that the contract was entered into pursuant to 31 CFR 500.574(a).

(3) Specific licenses will be issued on a case-by-case basis to authorize financial transactions such as the payment of deposits, earnest money, signing bonuses, and administrative and registration fees incident to the signature of specific executory contracts authorized pursuant to paragraph (a)(1) of this section. The number of the pertinent license must be referenced in all funds transfers and other banking transactions through banks subject to U.S. jurisdiction made in connection with the contract.

(b) *Preparatory transactions.* (1) Specific licenses will be issued authorizing commercial and financial transactions necessary to obtaining and preparing to perform executory contracts authorized pursuant to paragraph (a)(1) of this section. These commercial and financial transactions include:

- (i) Opening offices in Vietnam;
- (ii) Hiring staff;
- (iii) Writing and designing plans;
- (iv) Carrying out preliminary feasibility studies and engineering and technical surveys; and

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(v) Import, export, and service transactions incident to the foregoing.

(2) Specific licenses issued pursuant to paragraph (b)(1) of this section will, to the extent feasible, encompass commercial and financial transactions incident to the licensed commercial purpose or activity.

NOTE: Exports or reexports to Vietnam of goods and technical data, or of the direct products of technical data (regardless of U.S. content), in connection with activities licensed by FAC may require authorization from the U.S. Department of Commerce pursuant to the Export Administration Regulations, 15 CFR parts 768-799.

(3) The number of the pertinent license must be referenced in all funds transfers and other banking transactions through banks subject to U.S. jurisdiction in connection with preparatory transactions under paragraphs (b) (1) and (2) of this section.

[57 FR 62230, Dec. 30, 1992]

§ 500.575 Certain services to Vietnamese nationals authorized.

(a) Specific licenses may be issued on a case-by-case basis for the provision in the United States or a third country of business orientation or training services to Vietnamese nationals. The orientation or training program may pertain only to industrial or commercial processes, or to specific equipment and related technical data both of which are eligible for export under a general license to Country Group Y, as set forth in Supplement No. 1 to part 770 of the Export Administration Regulations, 15 CFR parts 768-799. Licenses issued pursuant to this section will not authorize Vietnamese participation in orientation and training programs with respect to specific equipment and related technical data that may not be exported under a general license to Country Group Y pursuant to the Export Administration Regulations. Training programs may involve instruction on the maintenance or operation of a particular product, but may not involve instruction in a product's design or manufacture.

NOTE: The transfer of mass-market software and certain technical data eligible for export to most destinations under General License GTDU to Vietnamese nationals may require additional authorization from the

U.S. Department of Commerce pursuant to the Export Administration Regulations.

(b) Transactions directly incident to the travel and maintenance expenses of the Vietnamese nationals for purposes of orientation or training programs are authorized pursuant to § 500.566. Payment of salaries or other fees to Vietnamese nationals participating in orientation or training programs is not authorized.

(c) Applications for specific licenses should be submitted by the orientation or training program sponsor and should include a full description of the program to be offered, including the participants, the identity of their employers, and the capacities in which the participants are employed.

[58 FR 63084, Nov. 30, 1993]

§ 500.576 Authorization of transactions concerning certain development projects in Vietnam.

(a) All transactions by persons subject to U.S. jurisdiction in connection with participation in development projects in Vietnam formally proposed or approved for execution, funding or sponsorship by the international institutions listed in appendix A to this part ("Qualified Projects") are authorized. For purposes of this section, Qualified Projects include investment projects, structural adjustment lending, sector adjustment lending, International Monetary Fund balance-of-payments support, and general development assistance including grants, technical assistance, and loans.

(b) Persons subject to U.S. jurisdiction may provide both goods and services to any party contracting to participate in a Qualified Project pursuant to the authorization contained in this section.

(1) Services may include financial, legal, consulting, insurance, shipping and other services.

(2) Persons subject to U.S. jurisdiction may participate in Qualified Projects as suppliers, contractors, or subcontractors, and through joint ventures with third-country nationals and Vietnamese nationals.

(3) Persons subject to U.S. jurisdiction may finance, or guarantee the performance of, activities of U.S. participants in a Qualified Project; co-financ-

ing of or lending to the Qualified Project itself by a person subject to U.S. jurisdiction may be authorized by specific license pursuant to § 500.801.

Illustrative examples of transactions covered by this section are set forth in § 500.413.

(c) Except as otherwise authorized, persons subject to U.S. jurisdiction may not participate in development projects in Vietnam that are bilaterally funded and administered, or in projects or feasibility studies prior to formal proposal or approval by a qualified international institution for its involvement in the project or study. If a qualified international institution formally proposes but thereafter rejects, terminates, or abandons a project, the project shall no longer constitute a Qualified Project for purposes of this section. Except as otherwise specifically authorized pursuant to this part, persons subject to U.S. jurisdiction may not enter into any new commitments with respect to the project after the date of such rejection, termination, or abandonment. In addition, this section does not authorize:

(1) The importation of Vietnamese-origin goods into the United States, except as required to honor service or warranty contracts associated with Qualified Projects;

(2) Offshore transactions of persons subject to U.S. jurisdiction involving the sale of Vietnamese-origin goods between Vietnam and third countries, or among third countries;

(3) Flights into or out of Vietnam by aircraft owned or controlled by persons subject to U.S. jurisdiction, except when such persons transport, on aircraft they own, only passengers or cargo associated with a Qualified Project in which such persons are participating pursuant to this section;

(4) The use in Vietnam of credit cards issued by a U.S. banking institution; or

(5) A debit to a blocked account.

Example: A Vietnamese highway project feasibility study financed by a third-country development agency is not a Qualified Project for purposes of this section. However, the feasibility study would be a Qualified Project, notwithstanding the bilateral funding, if the International Development Association had formally proposed the highway project as one under consideration for

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funding in its *Monthly Operational Summary of World Bank and IDA Proposed Projects*.

(d) Within 10 business days after entering into an agreement for goods, services, financing, investment, or other participation in or related to a Qualified Project, the person(s) subject to U.S. jurisdiction entering into the agreement must register with the Office of Foreign Assets Control, Compliance Division, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW.—Annex, Washington, DC 20220. The registration shall reference the fact that the agreement was entered into pursuant to 31 CFR 500.576(a), and shall provide:

(1) The name, address, telephone and facsimile numbers, and nationality of the person(s) subject to U.S. jurisdiction;

(2) If the reporting party is not an individual, the name, address, telephone and facsimile numbers of the individual to contact for further information;

(3) The name of the international institution listed in appendix A formally proposing, approving, executing, funding, or sponsoring the project;

(4) The name and a brief description of the project in Vietnam (with any contract, project, request for bid, or other identifying number);

(5) A brief description of the activity covered by the agreement, and the contract value; and

(6) If the reporting party is a subcontractor, the prime contractor's name, address, and nationality, and those of all intermediate subcontractors.

Registration is not required of agencies of the Federal Government participating in Qualified Projects.

(e) Upon registration meeting the requirements of paragraph (d) of this section, the Office of Foreign Assets Control will assign a registration number to the contract involved. This number should be referenced in all funds transfers and other banking transactions that take place through banks subject to U.S. jurisdiction, and in all U.S. export documents, in connection with the Qualified Project in Vietnam in order to avoid the blocking of such funds and to facilitate export transactions.

(f) Annual reports must be filed with the Office of Foreign Assets Control on

the anniversary of the issuance of a contract registration number, briefly describing the status of the project and any material changes in the information originally provided.

NOTE TO § 500.576: Exports or reexports to Vietnam of goods and technical data, or of the direct products of technical data (regardless of U.S. content), in connection with activities licensed by FAC may require authorization from the U.S. Department of Commerce pursuant to the Export Administration Regulations, 15 CFR parts 768–799.

[58 FR 68531, Dec. 28, 1993]

§ 500.577 Authorization of bank transactions with respect to Vietnam by certain international organizations.

All transactions by banking institutions subject to U.S. jurisdiction incidental to the processing of transactions of the international institutions identified in appendix A with reference to Vietnam are authorized.

Example: A transfer to Vietnam or a Vietnamese national of funds from the U.S. account of a qualified international institution listed in appendix A to this part, for a program, rent or salary payment, is not blocked under this part.

[58 FR 68532, Dec. 28, 1993]

§ 500.578 Vietnamese property unblocked.

All transactions otherwise prohibited by this part which involve property in which a designated national of Vietnam has an interest are authorized.

[60 FR 12886, Mar. 9, 1995]

§ 500.579 Authorization for release of certain blocked transfers by banking institutions subject to U.S. jurisdiction.

(a) Banking institutions subject to the jurisdiction of the United States are authorized to unblock and return to the remitting party funds that were blocked pursuant to this part because of an interest of Vietnam or a Vietnamese national and that came into their possession or control by wire transfer or check remittance received after December 31, 1989, provided that no funds are released to the Government of Vietnam or any person in Vietnam.

(b) Specific licenses may be issued authorizing the return to the remitting

party of funds that were blocked by banking institutions subject to the jurisdiction of the United States pursuant to this part because of an interest of North Korea or a national thereof and that came into the banking institution's possession or control by wire transfer or check remittance, provided that no funds are released to the Government of North Korea, any entity controlled by the Government of North Korea, or any person located in, controlled from, or organized under the laws of North Korea.

[59 FR 26602, May 23, 1994, as amended at 60 FR 8935, Feb. 16, 1995]

§ 500.580 Authorization of U.S. dollar clearing transactions involving North Korea.

Banking institutions organized under the laws of or located in the United States are authorized to process the transfer of funds in which North Korea or a national thereof has an interest. Persons subject to U.S. jurisdiction who are originators or ultimate beneficiaries of funds transfers, however, including U.S. banking institutions that are themselves originators or beneficiaries, may not initiate or receive such transfers if the underlying transactions to which they relate are prohibited pursuant to this part.

[60 FR 8935, Feb. 16, 1995]

§ 500.581 Financial transactions related to diplomatic missions authorized.

All financial transactions related to activities of North Korean diplomatic missions in the United States and U.S. diplomatic missions in North Korea are authorized, with the exception of transactions involving the North Korean mission to the United Nations in New York, which are subject to approval by specific license.

[60 FR 8935, Feb. 16, 1995]

§ 500.582 Importation of North Korean-origin magnesite and magnesite.

Specific licenses may be issued authorizing the importation into the United States of North Korean-origin magnesite or magnesite.

[60 FR 8935, Feb. 16, 1995]

§ 500.583 News organization offices.

(a) Specific licenses may be issued authorizing all transactions necessary for the establishment and operation of news bureaus in North Korea by U.S. organizations whose primary purpose is the gathering and dissemination of news to the general public.

(b) Transactions that will be authorized include but are not limited to those incident to the following:

(1) Leasing office space and securing related goods and services;

(2) Hiring North Korean nationals to serve as support staff;

(3) Purchasing North Korean-origin goods for use in the operation of the office; and

(4) Paying fees related to the operation of the office in North Korea.

(c) Specific licenses may be issued authorizing transactions necessary for the establishment and operation of news bureaus in the United States by North Korean organizations whose primary purpose is the gathering and dissemination of news to the general public.

(d) The number assigned to a specific license issued pursuant to this section should be referenced in all import documents, and in all funds transfers and other banking transactions through banking institutions organized or located in the United States, in connection with the licensed transactions to avoid the blocking of goods imported from North Korea and the interruption of the financial transactions with North Korea.

[60 FR 8935, Feb. 16, 1995]

§ 500.584 Energy sector projects in North Korea.

Specific licenses may be issued to permit persons subject to U.S. jurisdiction to participate in certain energy sector projects in North Korea in connection with that country's transition to light-water reactor ("LWR") power plants. Transactions that may be licensed include those related to LWR power plant design, site preparation, excavation, delivery of essential non-nuclear components including turbines and generators, building construction, the disposition of spent nuclear fuel, and the provision of heavy oil to North

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Korea for heating and electricity generation pending completion of the first LWR unit.

[60 FR 8935, Feb. 16, 1995]

§ 500.585 Payments for services rendered by North Korea to United States aircraft authorized.

Payments to North Korea of charges for services rendered by the Government of North Korea in connection with the overflight of North Korea or emergency landing in North Korea by aircraft owned or controlled by a person subject to the jurisdiction of the United States or registered in the United States are authorized.

[62 FR 17548, Apr. 10, 1997]

§ 500.586 Authorization of new transactions concerning certain North Korean property.

(a) Subject to the limitations in paragraph (b) of this section, transactions in which North Korea or a national thereof has an interest are authorized where:

(1) The property comes within the jurisdiction of the United States or into the control or possession of a person subject to the jurisdiction of the United States on or after June 19, 2000; or

(2) The interest in the property of North Korea or a North Korean national arises on or after June 19, 2000.

(b)(1) Unless otherwise authorized by the Office of Foreign Assets Control, all property and interests in property of North Korea or its nationals that were blocked pursuant to subpart B of this part as of June 16, 2000, remain blocked and subject to the prohibitions and requirements of this part;

(2)(i) The importation of products into the United States from North Korea requires approval from the Office of Foreign Assets Control. The person seeking to import products into the United States must provide information relevant to the determination whether the product was produced by

(A) A foreign person whose actions triggered import sanctions under sections 73 and 74 of the Arms Export Control Act;

(B) An activity of the government of North Korea relating to the develop-

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ment or production of any missile equipment or technology; or

(C) An activity of the government of North Korea affecting the development or production of electronics, space systems or equipment, and military aircraft.

(ii) Those seeking to import products from North Korea into the United States must submit all available information satisfying the requirements of paragraph (b)(2)(i) of this section; the name, address, telephone number, facsimile number, and e-mail address of the importer; a description of the product to be imported, including quantity and cost; the name and address of the producer of the product; the name of the location where the product was produced; and the name and address of the North Korean exporter. Requests for import review should be submitted by mail to North Korea Unit, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW, Annex, Washington, DC 20220. Upon review of the submitted information, the Office of Foreign Assets Control will issue a letter indicating the results of the review to the person seeking to import the product.

(3) Except as authorized by § 500.580 or unless otherwise authorized by the Office of Foreign Assets Control, persons subject to the jurisdiction of the United States are prohibited from engaging in any transfer from the government of North Korea:

(i) Constituting a donation to a person subject to the jurisdiction of the United States; or

(ii) With respect to which a person subject to the jurisdiction of the United States knows (including knowledge based on advice from an agent of the United States Government), or has reasonable cause to believe, that the transfer poses a risk of furthering terrorist acts in the United States.

(4) This section does not affect any open enforcement action initiated by the U.S. government prior to June 19, 2000 or any seizure, forfeiture, penalty, or liquidated damages case that is considered closed in accordance with U.S. Customs or other agency regulations. This section also does not authorize the importation into the United States

of goods that are under seizure or detention by U.S. Customs officials pursuant to Customs laws or other applicable provision of law, until any applicable penalties, charges, duties or other conditions are satisfied. This section does not authorize importation into the United States of goods for which forfeiture proceedings have been commenced or of goods that have been forfeited to the U.S. Government, other than through U.S. Customs disposition by selling at auction.

NOTE TO § 500.586(b): The exportation and reexportation of items may be subject to license application requirements under regulations administered by other federal agencies (see *e.g.*, the Export Administration Regulations administered by the Department of Commerce). Section 500.533 of this part continues to provide authority for transactions incident to the exportation and reexportation of items authorized by the Department of Commerce. It should also be noted that the shipment of strategic goods from a foreign country to North Korea by persons subject to the jurisdiction of the United States remains prohibited by 31 CFR part 505. The application requirements for a specific license relating to such goods are found in 31 CFR 501.801.

[65 FR 38165, June 19, 2000]

Subpart F—Reports

§ 500.601 Records and reports.

For provisions relating to records and reports, see subpart C of part 501 of this chapter.

[62 FR 45101, Aug. 25, 1997]

§ 500.602 Reporting of claims of U.S. nationals against North Korea.

(a) *Requirement for reports.* Reports are required to be filed on or before March 9, 1998, in the manner prescribed in this section, with respect to all outstanding claims held by United States nationals against the Government of North Korea or any North Korean government entity.

(b) *Who must report.* A report must be submitted by each U.S. national having a claim outstanding against the Government of North Korea or any North Korean government entity. Reports should be submitted only by persons who were U.S. citizens or entities organized under the laws of a U.S. jurisdiction on the date of the loss.

(c) *How to register.* U.S. nationals filing reports of claims must submit a letter containing the information required by paragraph (f) of this section. The letter must be sent to the Blocked Assets Division, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Ave., NW.—Annex, Washington, DC 20220, to arrive by March 9, 1998. A copy of the submission should be kept by the claimant.

(d) *Certification.* Every report shall bear the signature of the claimant or a person authorized by the claimant to sign the report. The signature will certify that, to the best of the reporter's knowledge, the statements set forth in the report, including any papers attached to or filed with the report, are true and accurate, and that all material facts in connection with the report have been set forth.

(e) *Confidentiality of reports.* Reports submitted pursuant to this section are regarded as privileged and confidential.

(f) *Contents of report.* The report must contain the following information (with responses numbered to correspond with the numbers used below):

(1) Identification of claimant.

(i) Claimant's Legal Name.

(ii) Claimant's Address.

(iii) Telephone number of individual to contact regarding the report.

(iv) If claimant is a naturalized citizen of the United States, state the place and date of naturalization.

(v) If claimant is a corporation or business, state the place of incorporation and principal place of business.

(2) Information concerning claim.

(i) Amount of loss in U.S. dollars (indicate exchange or interest rates and relevant dates utilized for any currency translation or interest calculation).

(ii) Describe the circumstances of the loss. Include the date of the loss and a description of the property, business, obligation, injury or other damage which is the subject of the claim.

(g) *Definition of United States national.* For purposes of this section, the term *United States national* or *U.S. national* means:

(1) An individual who is a citizen of the United States;

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(2) An individual who, though not a citizen of the United States, owes permanent allegiance to the United States, and is not an alien; or

(3) A partnership, corporation, or other juridical entity organized under the laws of the United States or any jurisdiction within the United States.

(h) *Definition of the Government of North Korea; North Korean government entity.* For purposes of this section:

(1) The term *Government of North Korea* means the government of the territory of Korea north of the 38th parallel of north latitude, as well as any political subdivision, agency, or instrumentality thereof, or any territory, dependency, colony, protectorate, mandate, dominion, possession, or place subject to the jurisdiction thereof as of the “effective date.”

(2) The term *North Korean government entity* means any corporation, partnership, or association, or other organization, wherever organized or doing business, that is owned or controlled by the Government of North Korea.

[62 FR 64721, Dec. 9, 1997]

Subpart G—Penalties

SOURCE: 63 FR 10324, Mar. 3, 1998, unless otherwise noted.

§ 500.701 Penalties.

(a) Attention is directed to section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16—“TWEA”), as adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410, as amended, 28 U.S.C. 2461 note), which provides that:

(1) Persons who willfully violate any provision of TWEA or any license, rule, or regulation issued thereunder, and persons who willfully violate, neglect, or refuse to comply with any order of the President issued in compliance with the provisions of TWEA shall, upon conviction, be fined not more than \$1,000,000 or, if an individual, be fined not more than \$100,000 or imprisoned for not more than 10 years, or both; and an officer, director, or agent of any corporation who knowingly participates in such violation shall, upon conviction, be fined not more than

\$100,000 or imprisoned for not more than 10 years, or both.

(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, concerned in a violation of TWEA may upon conviction be forfeited to the United States.

(3) The Secretary of the Treasury may impose a civil penalty of not more than \$55,000 per violation on any person who violates any license, order, or regulation issued under TWEA.

(4) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation subject to a civil penalty issued pursuant to TWEA shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States Government.

(b) The criminal penalties provided in TWEA are subject to increase pursuant to 18 U.S.C. 3571 which, when read in conjunction with section 16 of TWEA, provides that persons convicted of violating TWEA may be fined up to the greater of either \$250,000 for individuals and \$1,000,000 for organizations or twice the pecuniary gain or loss from the violation.

(c) Attention is directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

§ 500.702 Prepenalty notice; contents; respondent's rights; service.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling,

regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Trading with the Enemy Act, and the Director determines that further proceedings are warranted, he or she shall issue to the person concerned a notice of his or her intent to impose a monetary penalty and/or forfeiture. The prepenalty notice may be issued whether or not another agency has taken any action with respect to this matter.

(b) *Contents*—(1) *Facts of violation*. The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty and/or forfeiture.

(2) *Respondent's rights*—(i) *Right to respond*. The prepenalty notice shall also inform the respondent of respondent's right to respond in writing to the notice within 30 calendar days of the mailing or other service of the notice pursuant to paragraph (c) of this section, as to why a monetary penalty and/or forfeiture should not be imposed, or, if imposed, why it should be in a lesser amount than proposed.

(ii) *Right to request a hearing*. The prepenalty notice shall also inform the respondent that, in the response provided for in paragraph (b)(2)(i) of this section, the respondent may also request a hearing conducted pursuant to 5 U.S.C. 554–557 to present the respondent's defenses to the imposition of a penalty and/or forfeiture and to offer any other information that the respondent believes should be included in the agency record prior to a final determination concerning the imposition of a penalty and/or forfeiture. A failure to request a hearing within 30 calendar days of service of the prepenalty notice constitutes a waiver of a hearing.

(iii) *Right to request discovery prior to hearing*. The prepenalty notice shall also inform the respondent of the right to discovery prior to a requested hearing. Discovery must be requested in writing in the response provided for in paragraph (b)(2)(i) of this section, jointly with respondent's request for a hearing. A failure to file a request for discovery within 30 calendar days of service of the prepenalty notice con-

stitutes a waiver of prehearing discovery.

(c) *Service*. The prepenalty notice, or any amendment or supplement thereto, shall be served upon the respondent. Service shall be presumed completed:

(1) Upon mailing a copy by registered or certified mail, return receipt requested, addressed to the respondent at the respondent's last known address; or

(2) Upon the mailing date stated in a date-stamped postal receipt presented by the Office of Foreign Assets Control with respect to any respondent who has refused, avoided, or in any way attempted to decline delivery, tender, or acceptance of the registered or certified letter or has refused to recover a registered or certified letter served; or

(3) Upon personal service by leaving a copy with the respondent or an officer, a managing or general agent, or any other agent authorized by appointment or by law to accept or receive service for the respondent and evidenced by a certificate of service signed and dated by the individual making such service, stating the method of service and the identity of the individual with whom the prepenalty notice was left; or

(4) Upon proof of service on a respondent who is not resident in the United States by any method of service permitted by the law of the jurisdiction in which the respondent resides or is located, provided the requirements of such foreign law satisfy due process requirements under United States law with respect to notice of administrative proceedings, and where applicable laws or intergovernmental agreements or understandings make the methods of service set forth in paragraphs (c)(1) through (3) of this section inappropriate or ineffective for service upon the nonresident respondent.

§ 500.703 Response to prepenalty notice; requests for hearing and prehearing discovery; waiver; informal settlement.

(a) *Deadline for response*. The respondent shall have 30 calendar days from the date of mailing or other service of the prepenalty notice pursuant to § 500.702(c) to respond thereto. The response, signed and dated, may be sent by facsimile transmission to the Office of Foreign Assets Control, at 202/622–

1657, or by courier or other expedited means at any time during the 30-day response period if an original copy is sent concurrently via the U.S. Postal Service, registered or certified mail, return receipt requested. The date shown on the date-stamped registered or certified mail postal receipt will constitute the filing date of the response.

(b) *Form and contents of response*—(1) *In general.* The written response need not be in any particular form, but shall contain information sufficient to indicate that it is in response to the prepenalty notice. It should be responsive to the allegations contained therein and set forth the nature of the respondent's defenses.

(i) The response must admit or deny specifically each separate allegation of violation made in the prepenalty notice. If the respondent is without knowledge as to an allegation, the response shall so state, and such statement shall operate as a denial. Failure to deny, controvert, or object to any allegation will be deemed an admission of that allegation.

(ii) The response must also set forth any additional or new matter or arguments the respondent seeks, or shall seek, to use in support of all defenses or claims for mitigation. Any defense or partial defense not specifically set forth in the response shall be deemed waived, and evidence thereon may be refused, except for good cause shown.

(iii) The response must also accurately state, for each respondent, the respondent's full name and address for future service, together with current telephone and, if applicable, facsimile machine numbers and area code. If respondent is represented by counsel, counsel's full name and address, together with telephone and facsimile numbers and area code, may be provided in lieu of service information for the respondent. The respondent or respondent's counsel of record is responsible for providing timely written notice to the parties of any subsequent changes in the information provided.

(2) *Request for hearing and prehearing discovery; waiver.* Any request for an administrative hearing and prehearing discovery must be made, if at all, in the written response made pursuant to

this section and within the 30 calendar day period specified in § 500.705(a). A failure to request a hearing and prehearing discovery in writing within 30 calendar days of service of the prepenalty notice constitutes a waiver of a hearing and prehearing discovery. A response asserting that respondent reserves the right to request a hearing or prehearing discovery beyond the 30 calendar day period is ineffectual.

(3) *Informal settlement; response deadline.* In addition or as an alternative to a written response to a prepenalty notice pursuant to this section, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. In the event of settlement at the prepenalty stage, the claim proposed in the prepenalty notice will be withdrawn, the respondent is not required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the 30 calendar day period specified in paragraph (a) of this section for written response to the prepenalty notice remains in effect unless additional time is granted by the Office of Foreign Assets Control. A failure to request a hearing and prehearing discovery in writing within 30 calendar days of service of the prepenalty notice constitutes a waiver of a hearing and prehearing discovery.

§ 500.704 Penalty imposition or withdrawal absent a hearing request.

(a) *No violation.* If, in the absence of a timely hearing request, after considering any response to the prepenalty notice and any relevant facts, the Director determines that there was no violation by the respondent named in the prepenalty notice, the Director promptly shall notify the respondent in writing of that determination and that

no civil monetary penalty or civil forfeiture pursuant to this subpart will be imposed.

(b) *Violation.* If, in the absence of a timely hearing request, after considering any response to the prepenalty notice and any relevant facts, the Director determines that there was a violation by the respondent named in the prepenalty notice, the Director promptly shall issue a written notice of the imposition by the Office of Foreign Assets Control of the civil monetary penalty and/or civil forfeiture and/or other available disposition with respect to that respondent.

(1) The penalty/forfeiture notice shall inform the respondent that payment of the assessed penalty must be made within 30 calendar days of the mailing of the penalty notice.

(2) The penalty/forfeiture notice shall inform the respondent of the requirement to furnish respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that the Department intends to use such number for the purposes of collecting and reporting on any delinquent penalty amount in the event of a failure to pay the penalty imposed.

§ 500.705 Time and opportunity to request a hearing.

(a) *Deadline for hearing request.* Within 30 calendar days of the date of mailing or other service of the prepenalty notice pursuant to § 500.702(c), the respondent may file a written request for an agency hearing conducted pursuant to this section, to present the respondent's defenses to the imposition of a penalty and/or forfeiture and to offer any other information for inclusion, if found admissible pursuant to § 500.715(a), into the agency record prior to a final determination concerning the imposition of a penalty and/or forfeiture.

(b) *Content of written response.* If an agency hearing is requested by the respondent or by the respondent's counsel, the written hearing request must be accompanied by a written response to the prepenalty notice containing the information required by § 500.703(b)(1)(i) through (iii). An untimely hearing request or written response to the

prepenalty notice constitutes a waiver of a hearing.

(c) *Signature of filings.* All hearing requests, motions, responses, interrogatories, requests for deposition transcripts, requests for protective orders, and all other filings relating to requests for and responses to discovery or pertaining to the hearing process, must be signed by each requesting party or, if represented, by each party's counsel.

(d) *Computation of time—(1) Final date on weekend or holiday.* Whenever the final date for any requirement of this part falls on a Saturday, Sunday, Federal holiday, or other day on which the Office of Foreign Assets Control is not open for the transaction of business during normal working hours, the time for filing will be extended to the close of business on the next working day.

(2) *Closing time.* The time for filing any document expires at 5:00 p.m. local Washington, DC time on the last day when such filing may be made.

§ 500.706 Hearing.

(a) *Notice of hearing.* (1) Any respondent requesting a hearing shall receive notice of the time and place of the hearing at the service address provided pursuant to § 500.703(b)(1)(iii). Requests to change the time and place of a hearing may be submitted to the Administrative Law Judge, who may modify the original notice or subsequently set hearing dates. All requests for a change in the time or place of a hearing must be received in the Administrative Law Judge's chambers and served upon the parties no later than 15 working days before the scheduled hearing date.

(2) The hearing shall be conducted in a manner consistent with 5 U.S.C. 554–557, pursuant to section 1710(c) of the Cuban Democracy Act of 1992 (22 U.S.C. 6001–6010) and section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16).

(b) *Powers.* The Administrative Law Judge shall have all powers necessary to conduct the hearing, consistent with 5 U.S.C. 554–557, including the following powers:

(1) To administer oaths and affirmations;

(2) To require production of records or any information relative to any act

or transaction subject to this part, including the imposition of sanctions available under Federal Rule of Civil Procedure 37(b)(2) (Fed. R. Civ. P. 37(b)(2), 28 U.S.C.) for a party's failure to comply with discovery requests;

(3) To receive relevant and material evidence and to rule upon the admission of evidence and offers of proof;

(4) To take or cause depositions to be taken as authorized by this part;

(5) To regulate the course of the hearing and the conduct of the parties and their counsel;

(6) To hold scheduling or prehearing conferences as deemed necessary;

(7) To consider and rule upon all procedural and other motions appropriate in an adjudicatory proceeding, provided that only the Secretary or the Secretary's designee shall have the power to grant any motion to dismiss the proceeding or to decide any other motion that results in a final determination of the merits of the proceeding;

(8) To prepare and present to the Secretary or to the Secretary's designee a recommended decision as provided in §§ 500.711(d) and 500.716(e);

(9) To recuse himself on motion made by a party or on the Administrative Law Judge's own motion;

(10) To establish time, place, and manner limitations on the attendance of the public and the media for any public hearing;

(11) To perform all necessary or appropriate measures to discharge the duties of an Administrative Law Judge; and

(12) To set fees and expenses for witnesses, including expert witnesses.

(c) *Appearance and practice in a civil penalty hearing*—(1) *Appearance before an Administrative Law Judge by counsel*. Any member in good standing of the bar of the highest court of any state, commonwealth, possession, or territory of the United States, or the District of Columbia may represent respondents upon written notice to the Administrative Law Judge in a civil penalty hearing.

(2) *Appearance before an Administrative Law Judge by a nonlawyer*. A respondent may appear on his own behalf; a duly authorized member of a partnership may represent the partnership; a

duly authorized officer, director, or employee of any corporation may represent that corporation upon written notice to the Administrative Law Judge in a civil penalty hearing.

(3) *Office of Foreign Assets Control representation*. The Office of Foreign Assets Control shall be represented by the Office of General Counsel of the United States Department of the Treasury.

(d) *Conflicts of interest*—(1) *Conflict of interest in representation*. No individual shall appear as counsel for a party in a proceeding conducted pursuant to this subpart if it reasonably appears that such representation may be materially limited by that counsel's responsibilities to a third person, or by counsel's own interests.

(2) *Corrective measures*. The Administrative Law Judge may take corrective measures at any stage of a proceeding to cure a conflict of interest in representation, including the issuance of an order limiting the scope of representation or disqualifying an individual from appearing in a representative capacity for the duration of the proceeding.

(e) *Ex parte communications*—(1) *Definition*. The term *ex parte communication* means any material oral or written communication not on the public record concerning the merits of an adjudicatory proceeding with respect to which reasonable prior notice to all parties is not given, on any material matter or proceeding covered by these regulations that takes place between:

(i) A party to the proceeding, a party's counsel, or any other individual; and

(ii) The Administrative Law Judge handling that proceeding, or the Secretary, or the Secretary's designee.

(2) *Exceptions*. (i) A request to learn the status of the proceeding does not constitute an *ex parte communication*; and

(ii) Settlement inquiries and discussions do not constitute *ex parte communications*.

(3) *Prohibition on ex parte communications*. From the time a respondent requests a hearing until the date that the Secretary or the Secretary's designee issues a final decision, no party, interested person, or counsel therefor shall knowingly make or cause to be made

an ex parte communication. The Administrative Law Judge, the Secretary, and the Secretary's designee shall not knowingly make or cause to be made to a party, or to any interested person or counsel therefor, any ex parte communication.

(4) *Procedure upon occurrence of ex parte communication.* If an ex parte communication is received by the Administrative Law Judge, the Administrative Law Judge shall cause all such written communication (or, if the communication is oral, a memorandum stating the substance of the communication) to be placed on the record of the proceeding and served on all parties. All parties to the proceeding shall have an opportunity, within 10 calendar days of the receipt of service of the notice or of receipt of a memorandum of the ex parte communication, to file responses thereto and to recommend any sanctions, in accordance with paragraph (e)(5) of this section, appropriate under the circumstances, or may file an interlocutory appeal with the Secretary or the Secretary's designee.

(5) *Sanctions.* Any party to the proceeding, a party's counsel, or any other individual, who makes a prohibited ex parte communication, or who encourages or solicits another to make any such communication, may be subject to any appropriate sanction or sanctions imposed by the Administrative Law Judge for good cause shown, or that may be imposed upon interlocutory appeal taken to the Secretary or the Secretary's designee, including, but not limited to, exclusion from the hearing and an adverse ruling on the issue which is the subject of the prohibited communication.

(f) *Time limits.* Except as provided elsewhere in this subpart, the Administrative Law Judge shall establish all time limits for filings with regard to hearings conducted pursuant to this subpart, except for decisions on interlocutory appeals filed with the Secretary or the Secretary's designee.

(g) *Failure to appear.* The unexcused failure of a respondent to appear in person at a hearing or to have duly authorized counsel appear in respondent's place constitutes a waiver of the respondent's right to a hearing and is

deemed an admission of the violation alleged. Without further proceedings or notice to the respondent, the Administrative Law Judge shall enter a finding that the right to a hearing was waived, and the case shall be determined pursuant to § 500.704.

§ 500.707 Interlocutory appeal.

(a) *Interlocutory appeals.* When exceptions, requests for extensions, or motions, including motions for summary disposition, are denied by the Administrative Law Judge, interlocutory appeals may be taken to the Secretary or to the Secretary's designee for a decision.

(b) *Filing deadline.* Interlocutory appeals must be filed no later than 15 calendar days after the matter being appealed has been decided in writing by the Administrative Law Judge. Parties may request that the Administrative Law Judge transmit the written decision to the parties by facsimile transmission, courier, or other expedited means in addition to service of the decision via the U.S. Postal Service by registered or certified mail, return receipt requested. Such requests must be supported by a written statement of need for expedited delivery. Timely filing of the interlocutory appeal shall be determined by the date stated on the date-stamped registered or certified mail postal receipt.

(c) *Manner of filing.* Interlocutory appeals to the Secretary or the Secretary's designee must be filed by facsimile transmission to 202/622-1188, courier, or other expedited means, and sent concurrently by registered or certified mail, return receipt requested, to the Secretary's Office, U.S. Treasury Department, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, with the envelope prominently marked "Attention: OFAC Interlocutory Appeal." Expedited service must also be made upon the Administrative Law Judge and all parties or, if represented, their counsel, with certified copies sent concurrently by registered or certified mail, return receipt requested.

§ 500.708 Settlement during hearing proceedings.

Any party may, at any time during the hearing, unilaterally submit written offers or proposals for settlement of a proceeding to the Secretary or the Secretary's designee, at the address listed in § 500.707(c). Submission of a written settlement offer does not provide a basis for adjourning or otherwise delaying all or any portion of a hearing. No settlement offer or proposal, nor any subsequent negotiation or resolution, is admissible as evidence in any hearing before this tribunal.

§ 500.709 Motions.

(a) *Written motions.* Except as otherwise specifically provided herein, an application or request for an order or ruling must be made by written motion, in typed format.

(1) All written motions must state with particularity the relief sought and must be accompanied by a proposed order.

(2) No oral argument may be held on written motions unless directed by the Administrative Law Judge. Written memoranda, briefs, affidavits, and other relevant material and documents may be filed in support of or in opposition to a motion.

(b) *Oral motions.* A motion may be made orally on the record unless the Administrative Law Judge directs that such motion be made in writing.

(c) *Filing of motions—(1) In general.* Motions by respondents must be filed with the Administrative Law Judge and served upon the Office of the Chief Counsel, Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, with the envelope prominently marked "Urgent: Annex—Room 3133," unless otherwise directed by the Administrative Law Judge. Motions by the Office of Foreign Assets Control must be filed with the Administrative Law Judge and with each respondent or respondent's counsel. Motions may also be concurrently sent by facsimile transmission, courier, or other expedited means.

(2) *Interlocutory appeals.* Motions related to interlocutory appeals to the Secretary or the Secretary's designee must be filed by facsimile transmission

to 202/622-1188, by courier, or by other expedited means, and sent concurrently by registered or certified mail, return receipt requested, to the Secretary's Office, U.S. Treasury Department, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, with the envelope prominently marked "Attention: OFAC Interlocutory Appeal." Expedited service must also be made upon the Administrative Law Judge and all parties or, if represented, their counsel, with certified copies sent concurrently by registered or certified mail, return receipt requested.

(d) *Responses.* (1) Any party may file a written response to a motion within 20 calendar days of the date of its mailing, by registered or certified mail pursuant to this subpart. If directed by the Administrative Law Judge, the time period in which to respond may be shortened or extended. The Administrative Law Judge may allow each party to file a response before finally ruling upon any oral or written motion. The Administrative Law Judge may allow a rejoinder to responses for good cause shown. If a rejoinder is permitted, it must be filed within 15 calendar days of the date the response was filed and served upon all parties.

(2) The failure of a party to oppose a written motion or an oral motion made on the record is deemed to be consent by that party to the entry of an order substantially in the form of any proposed order accompanying the motion.

(e) *Dilatory motions.* Frivolous, dilatory, or repetitive motions are prohibited. The filing of such motions may form the basis for sanctions.

§ 500.710 Discovery.

(a) *In general.* The availability of information and documents through discovery is subject to the agency's assertion of privileges available to OFAC and/or to the Treasury and to the application of all exemptions afforded the agency pursuant to the Freedom of Information Act (5 U.S.C. 552(b)(1) through (9)) and the Privacy Act (5 U.S.C. 552a) to all facets of discovery, including interrogatories, depositions that seek the release of trade secrets, proprietary materials, third-party confidential and/or commercially sensitive materials, placement of information,

documents and/or materials under seal and/or protective order, and interlocutory appeals to the Secretary or the Secretary's designee from any decision of the Administrative Law Judge.

(b) *Types of discovery.* Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or other evidence for inspection; and requests for admission. All depositions of Federal employees must take place in Washington, DC, at the U.S. Treasury Department or at the location where the Federal employee to be deposed performs his duties, whichever the Federal employee's supervisor or the Office of the Chief Counsel, Foreign Assets Control shall deem appropriate. All depositions of Federal employees shall be held at a mutually agreed upon date and time, and for a mutually agreed upon length of time.

(c) *Interrogatories.* Respondent's interrogatories must be served upon the Office of the Chief Counsel, Foreign Assets Control within 20 calendar days of respondent's written request for a hearing. The Office of Foreign Assets Control's interrogatories must be served within 30 calendar days of the receipt of service of respondent's interrogatories or within 30 calendar days of the receipt of respondent's written request for a hearing if no interrogatories are filed by respondent by that time. Parties have 30 calendar days to respond to interrogatories from the date interrogatories are received. Interrogatories shall be limited to 20 questions only. Each subpart, section, or other designation of a part of a question shall be counted as one complete question in computing the permitted 20 question total. Where more than 20 questions are served upon a party, the receiving party may determine which of the 20 questions the receiving party shall answer.

(d) *Scope.* Parties may obtain discovery regarding any matter not privileged which has material relevance to the merits of the pending action. It is not a ground for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated

to lead to discovery of admissible evidence. The Administrative Law Judge may make any order which justice requires to ensure that requests are not unreasonable, oppressive, excessive in scope or unduly burdensome, including the issuance of an order to show cause why a particular discovery request is justified upon the motion of the objecting party.

(e) *Privileged matter.* Privileged documents are not discoverable. Privileges include, inter alia, the attorney-client privilege, attorney work-product privilege, any government's or government agency's deliberative-process or classified information privilege, including materials classified pursuant to Executive Order 12958 (3 CFR, 1995 Comp., p. 333) and any future Executive orders that may be issued relating to the treatment of national security information, and all materials and information exempted from release to the public pursuant to the Privacy Act (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552(b)(1) through (9)).

(f) *Updating discovery.* Whenever a party receives new or additional information or documentation, all information produced, and all information required to be provided pursuant to the discovery and hearing process, must automatically be updated. The Administrative Law Judge may impose sanctions for failure to update, including prohibiting opposition to claims or defenses raised, striking pleadings or staying proceedings, dismissing the action or any part thereof, rendering a judgment by default, and holding a party in contempt.

(g) *Time limits.* All discovery, including all responses to discovery requests, shall be completed no later than 20 calendar days prior to the date scheduled for the commencement of the hearing. No exceptions to this time limit shall be permitted, unless the Administrative Law Judge finds on the record that good cause exists for waiving the requirements of this paragraph (g).

§ 500.711 Summary disposition.

(a) *In general.* The Administrative Law Judge shall recommend that the Secretary or the Secretary's designee issue a final order granting a motion

for summary disposition if the facts of the record show that:

(1) There is no genuine issue as to any material fact; and

(2) The moving party is entitled to a decision in its favor as a matter of law.

(b) *Filing of motions and responses.* (1) Any party who believes that there is no genuine issue of material fact to be determined and that such party is entitled to a decision as a matter of law may move at any time for summary disposition in its favor of all or any part of the proceeding. Any party, within 20 calendar days after service of such a motion, or within such time period as allowed by the Administrative Law Judge, may file a response to such motion.

(2) A motion for summary disposition must be accompanied by a statement of the material facts as to which the moving party contends there is no genuine issue. Such motion must be supported by documentary evidence, which may take the form of admissions in pleadings, stipulations, depositions, transcripts, affidavits, and any other evidentiary materials that the moving party contends support its position. The motion must also be accompanied by a brief containing the points and authorities in support of the moving party's arguments. Any party opposing a motion for summary disposition must file a statement setting forth those material facts as to which such party contends a genuine dispute exists. The opposition must be supported by evidence of the same type as that submitted with the motion for summary disposition and a brief containing the points and authorities in support of the contention that summary disposition would be inappropriate.

(c) *Hearing on motion.* At the request of any party or on his or her own motion, the Administrative Law Judge may hear oral argument on the motion for summary disposition.

(d) *Decision on motion.* Following receipt of a motion for summary disposition and all responses thereto, the Administrative Law Judge shall determine whether the moving party is entitled to summary disposition. If the Administrative Law Judge determines that summary disposition is warranted, he or she shall submit a rec-

ommended decision to that effect to the Secretary. If the Administrative Law Judge finds that no party is entitled to summary disposition, he or she shall make a ruling denying the motion.

(e) *Interlocutory appeal.* Following receipt of the Administrative Law Judge's recommended decision relating to summary disposition, each party has the right to an interlocutory appeal to the Secretary or the Secretary's designee. The interlocutory appeal must be filed within 20 calendar days immediately following the Administrative Law Judge's recommended decision.

(f) *Partial summary disposition.* If the Administrative Law Judge determines that a party is entitled to summary disposition as to certain claims only, the Administrative Law Judge shall defer submission of a recommended decision as to those claims. A hearing on the remaining issues must be ordered and those claims for which the Administrative Law Judge has determined that summary disposition is warranted will be addressed in the recommended decision filed at the conclusion of the hearing.

§ 500.712 Prehearing conferences and submissions.

(a) *Prehearing conferences.* The Administrative Law Judge may, on his or her own motion, or at the request of any party for good cause shown, direct counsel for the parties to meet with him or her (in person, by telephone, or by teleconference) at a prehearing conference to address any or all of the following:

(1) Simplification and clarification of the issues;

(2) Stipulations, admissions of fact, and the contents, authenticity and admissibility into evidence of documents;

(3) Matters of which official notice may be taken;

(4) Limitation of the number of witnesses;

(5) Summary disposition of any or all issues;

(6) Resolution of discovery issues or disputes; and

(7) Such other matters as may aid in the orderly disposition of the proceeding.

(b) *Prehearing orders.* At, or within a reasonable time following the conclusion of, any prehearing conference, the Administrative Law Judge shall serve on each party an order setting forth any agreements reached and any procedural determinations made.

(c) *Prehearing submissions.* Within 40 calendar days of the receipt of respondent's request for a hearing or at a time set by the Administrative Law Judge, the Office of Foreign Assets Control shall serve on the respondent and upon the Administrative Law Judge, the following:

- (1) Stipulations of fact, if any;
- (2) A list of the exhibits to be introduced at the hearing along with a copy of each exhibit; and
- (3) A list of witnesses to be called to testify at the hearing, including the name and address of each witness and a short summary of the expected testimony of each witness.

(d) *Deadline for respondent's and the other parties' submissions.* Unless for good cause shown the Administrative Law Judge permits an extension of time to file, the respondent and the other parties shall have 20 calendar days from the date of the submission by the Office of Foreign Assets Control of the items set forth in paragraph (c) of this section, and/or of any other party's service of items set forth in this paragraph (d), to serve upon the Administrative Law Judge and all parties, the following:

- (1) Its response to stipulations of fact, if any;
- (2) A list of the exhibits to be introduced at the hearing along with a copy of each exhibit; and
- (3) A list of witnesses to be called to testify at the hearing, including the name and address of each witness and a short summary of the expected testimony of each witness.

(e) *Effect of failure to comply.* No witness may testify and no exhibits may be introduced at the hearing if such witness or exhibit is not listed in the prehearing submissions pursuant to paragraphs (c) and (d) of this section, except for good cause shown.

§ 500.713 Public hearings.

(a) *In general.* All hearings shall be open to the public, unless the Adminis-

trative Law Judge, at his or her discretion, determines at any time prior to or during the hearing, that holding an open hearing would be contrary to the public interest. Within 20 calendar days of service of the notice of hearing from the Administrative Law Judge, any party may file with the Administrative Law Judge a request for a closed hearing, and any party may file a pleading in reply to such a request. Failure to file a request or a reply is deemed a waiver of any objections regarding whether the hearing will be public or closed.

(b) *Filing document under seal.* (1) The Office of Foreign Assets Control may file any document or any part of a document under seal if disclosure of the document would be inconsistent with the protection of the public interest or if justice requires protection of any person, including a source or a party, from annoyance, threat, oppression, or undue burden or expense, or the disclosure of the information would be, or might reasonably lead to a disclosure, contrary to Executive Order 12958 or other Executive orders concerning disclosure of information, U.S. Treasury Department regulations, the Privacy Act, or the Freedom of Information Act.

(2) The Administrative Law Judge shall also safeguard the security and integrity of any documents under seal and shall take all appropriate steps to preserve the confidentiality of such documents or any parts thereof, including closing portions of the hearing to the public. Release of any information under seal, in any form or manner, is subject to the same sanctions and the exercise of the same authorities as are provided with respect to ex parte communications under paragraph (e)(5) of this section.

(3) Should the Administrative Law Judge deny placement of any documents under seal or under protective order, any party, and any person whose documents or materials are at issue, may file an interlocutory appeal to the Secretary or the Secretary's designee. In such cases the Administrative Law Judge must not release or expose any of the records or documents in question to the public or to any other parties for a period of 20 calendar days from the

date of the Administrative Law Judge's ruling, in order to permit a petitioner the opportunity either to withdraw the records and documents or to file an interlocutory appeal with the Secretary or the Secretary's designee requesting an order that the records be placed under seal.

(4) Upon settlement, final decision, or motion to the Administrative Law Judge for good cause shown, all materials (including all copies) under seal or protective order shall be returned to the respective parties, except when it may be necessary to retain a record until the judicial process is completed.

(5) Written notice of all requests for release of protected documents or materials shall be given to the parties registered with the Administrative Law Judge at least 20 calendar days prior to any permitted release and prior to any access not specifically authorized under the protective order. A copy of all requests for information, including the name, address, and telephone number of the requester, shall be provided to the petitioner. Each request for access to protected material must also provide the names, addresses, and telephone numbers of all persons represented by the requester, including those on whose behalf the requester seeks access to protected information. The Administrative Law Judge shall impose sanctions provided under § 500.706(e)(4) and (e)(5) for failure to provide this information.

§ 500.714 Conduct of hearings.

(a) *In general*—(1) *Overview*. Hearings shall be conducted to provide a fair and expeditious presentation of the relevant disputed issues and facts. Each party has the right to present its case or defense by oral and documentary evidence and to conduct such cross examination as may be required for full disclosure of the relevant facts.

(2) *Order of hearing*. The Office of Foreign Assets Control shall present its case-in-chief first, unless otherwise ordered in advance by the Administrative Law Judge or otherwise expressly specified by law or regulation. The Office of Foreign Assets Control shall be the first party to present an opening statement and a closing statement and may

make a rebuttal statement after the respondent's closing statement.

(3) *Stipulations*. Unless the Administrative Law Judge directs otherwise, all stipulations of fact and law previously agreed upon by the parties, and all documents, the admissibility of which has been previously stipulated, will be admitted into evidence upon commencement of the hearing.

(b) *Transcript*. A record of the hearing shall be made by manual or electronic means, including through the use of audio recorded diskettes or audio-visual cassettes, and transcribed unless the Administrative Law Judge rules otherwise. The transcript shall be made available to any party upon payment of the cost thereof. The Administrative Law Judge shall have authority to order the record corrected, either upon a motion to correct, upon a motion to stipulate by the parties for good cause shown, or following notice to the parties upon the Administrative Law Judge's own motion. The Administrative Law Judge shall serve notice upon all parties, at the addresses provided by the parties pursuant to § 500.703(b)(1)(iii), that the certified transcript, together with all hearing exhibits and exhibits introduced but not admitted into evidence at the hearing, has been filed with the Administrative Law Judge.

§ 500.715 Evidence.

(a) *Admissibility*. (1) Except as is otherwise set forth in this section, evidence that is relevant and material is admissible to the fullest extent authorized by the Administrative Procedure Act and other applicable law.

(2) Evidence may be excluded if it is misleading or its probative value is substantially outweighed by the danger of unfair prejudice or confusion of the issues, or considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

(3) Evidence that would be inadmissible under the Federal Rules of Evidence need not be deemed or ruled to be inadmissible in a proceeding conducted pursuant to this subpart if such evidence is relevant and material, and not unduly repetitive.

(b) *Official notice*. (1) Official notice may be taken of any material fact

which may be judicially noticed by a United States district court.

(2) All matters officially noticed by the Administrative Law Judge shall appear on the record.

(3) If official notice is requested or taken of any material fact, the parties, upon timely request, shall be afforded an opportunity to object.

(c) *Duplicate copies.* A duplicate copy of a document is admissible to the same extent as the original, unless a genuine issue is raised as to whether the copy is in some material respect not a true and legible copy of the original.

(d) *Objections to admissibility of evidence.* Objections to the admissibility of evidence must be timely made and rulings on all objections must appear on the record. Failure to object to admission of evidence or to any ruling constitutes a waiver of the objection.

(e) *Rejected exhibits.* The Administrative Law Judge shall retain rejected exhibits, adequately marked for identification, in the event of an interlocutory appeal.

(f) *Stipulations.* The parties may stipulate as to any relevant matters of fact or to the authenticity of any relevant documents. Such stipulations may be received into evidence at a hearing and are binding on the parties with respect to the matters therein stipulated.

(g) *Depositions of unavailable witnesses.* If a witness is unavailable to testify at a hearing, and that witness has testified in a deposition within the United States to which all parties to the proceeding have received timely notice and an opportunity to participate, a party may offer as evidence all or any part of the transcript of the deposition, including deposition exhibits. All costs of depositions shall be borne by the party requesting the deposition.

§ 500.716 Proposed decisions; recommended decision of Administrative Law Judge; final decision.

(a) *Proposed decisions.* Any party may file with the Administrative Law Judge a proposed decision within 30 calendar days after the parties have received notice that the transcript has been filed with the Administrative Law Judge, unless otherwise ordered by the Administrative Law Judge.

(b) *Reliance on relevant authorities.* The proposed decision must be supported by citation to relevant authorities and by transcript page references to any relevant portions of the record. At the same time the proposed decision is filed, a post-hearing brief may be filed in support. The post-hearing brief shall be filed either as part of the same document or in a separate document.

(c) *Reply briefs.* Reply briefs may be filed within 15 calendar days after the date on which the parties' proposed decision is due. Reply briefs must be strictly limited to responding to new matters, issues, or arguments raised in another party's papers. A party who has not filed a proposed decision or a post-hearing brief may not file a reply brief.

(d) *Simultaneous filing required.* Absent a showing of good cause for the use of another procedure, the Administrative Law Judge shall not order the filing by any party of any brief or reply brief in advance of the other party's filing of its brief.

(e) *Recommended decision and filing of record.* Within 45 calendar days after expiration of the time allowed for filing reply briefs, the Administrative Law Judge shall file with and certify to the Secretary or the Secretary's designee the record of the proceeding and the decision. The record must include the Administrative Law Judge's recommended decision, including a determination either that there was no violation by the person named in the prepenalty notice, or that there was a violation by the person named in the prepenalty notice, and the recommended monetary penalty and/or civil forfeiture and/or other disposition available to the Office of Foreign Assets Control. In addition to the proposed decision, the record must include all prehearing and hearing transcripts, exhibits, and rulings, and the motions, briefs, memoranda, and other supporting papers filed in connection with the hearing. The Administrative Law Judge shall have the recommended decision served upon each party.

(f) *Exceptions to the recommended decision.* When the Administrative Law Judge has issued his recommended decision, the Administrative Law Judge or his representative shall contact each

§ 500.717

party by telephone at the telephone number provided by each party pursuant to § 500.703(b)(1)(iii). Within 3 calendar days of telephoning the parties, the recommended decision shall be mailed by the Administrative Law Judge to the parties. A party may file written exceptions to the recommended decision with the Secretary or the Secretary's designee within 30 calendar days of the date the telephone call is placed by the Administrative Law Judge or his representative. A supporting brief may be filed at the time the exceptions are filed.

(g) *Final decision.* The final decision of the Secretary or the Secretary's designee shall be based on a review of the Administrative Law Judge's recommended decision and the entire record of the proceeding. The final written decision shall be provided to all parties.

§ 500.717 Judicial review.

Any person may seek judicial review as provided under 5 U.S.C. 702 for a penalty and/or forfeiture imposed pursuant to this part.

§ 500.718 Referral to United States Department of Justice; administrative collection measures.

In the event that the respondent does not pay the penalty imposed pursuant to this part within 30 calendar days of the mailing of the written notice of the imposition of the penalty, the matter may be referred for administrative collection measures or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 500.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see subpart D of part 501 of this chapter.

[62 FR 45101, Aug. 25, 1997]

31 CFR Ch. V (7–1–01 Edition)

§ 500.802 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to the Trading With the Enemy Act may be taken by any person to whom the Secretary of the Treasury has delegated authority so to act.

[15 FR 9040, Dec. 19, 1950. Redesignated at 62 FR 45101, Aug. 25, 1997]

§ 500.803 Customs procedures; merchandise specified in § 500.204.

(a) With respect to merchandise specified in § 500.204, whether or not such merchandise has been imported into the United States, directors of customs shall not accept or allow any:

(1) Entry for consumption (including any appraisement entry, any entry of goods imported in the mails, regardless of value, or any other informal entries);

(2) Entry for immediate exportation;

(3) Entry for transportation and exportation;

(4) Withdrawal from warehouse;

(5) Transfer or withdrawal from a foreign-trade zone; or

(6) Manipulation or manufacture in a warehouse or in a foreign-trade zone, until either:

(i) A specific license pursuant to this chapter is presented; or,

(ii) Instructions from the Foreign Assets Control, authorizing the transaction are received.

(b) Whenever a specific license is presented to a director of customs in accordance with this section, one additional legible copy of the entry, withdrawal or other appropriate document with respect to the merchandise involved shall be filed with the director of customs at the port where the transaction is to take place. Each copy of any such entry, withdrawal or other appropriate document, including the additional copy, shall bear plainly on its face the number of the license pursuant to which it is filed. The original copy of the specific license shall be presented to the director in respect to each such transaction and shall bear a notation in ink by the licensee or person presenting the license showing the description, quantity, and value of the merchandise to be entered, withdrawn or otherwise dealt with. This notation

should be so placed and so written that there will exist no possibility of confusing it with anything placed on the license at the time of its issuance. If the license in fact authorizes the entry, withdrawal or other transaction with regard to the merchandise, the director, or other authorized customs employee, shall verify the notation by signing or initialing it after first assuring himself that it accurately describes the merchandise it purports to represent. The license shall thereafter be returned to the person presenting it and the additional copy of the entry, withdrawal or other appropriate document shall be forwarded by the director to the Office of Foreign Assets Control, Treasury Department, Washington, DC 20220.

(c) Whenever a person shall present an entry, withdrawal or other appropriate document affected by this section and shall assert that no specific Foreign Assets Control license is required in connection therewith, the director of customs shall withhold action thereon and shall advise such person to communicate directly with the Office of Foreign Assets Control to request that instructions be issued to the director to authorize him to take action with regard thereto.

[40 FR 7651, Feb. 21, 1975, as amended at 57 FR 1387, Jan. 14, 1992. Redesignated at 62 FR 45101, Aug. 25, 1997]

Subpart I—Miscellaneous Provisions

§ 500.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (“OMB”) under the Paperwork Reduction Act of information collections relating to record-keeping and reporting requirements, to licensing procedures (including those pursuant to statements of licensing policy), and to other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. The information collection requirement in § 500.602 has been approved by

the Office of Management and Budget and assigned control number 1505-0160.

[62 FR 45101, Aug. 25, 1997, as amended at 62 FR 64722, Dec. 9, 1997]

APPENDIX A TO PART 500—QUALIFYING INTERNATIONAL INSTITUTIONS

Asian Development Bank (ADB)
Food and Agricultural Organization (FAO)
International Bank for Reconstruction and Development (IBRD, the “World Bank”)
International Civil Aviation Organization (ICAO)
International Development Association (IDA)
International Finance Corporation (IFC)
International Fund for Agricultural Development (IFAD)
International Labor Organization (ILO)
International Maritime Organization (IMO)
International Monetary Fund (IMF)
Multilateral Investment Guarantee Association (MIGA)
UN Capital Development Fund (UNCDF)
UN Children’s Fund (UNICEF)
UN Development Fund for Women (UNDFW)
UN Development Program (UNDP)
UN Economic & Social Commission for Asian and the Pacific (UNESCAP)
UN Education, Scientific and Cultural Organization (UNESCO)
UN Environment Program (UNEP)
UN Food Program (UNFP)
UN Industrial Development Organization (UNIDO)
UN International Drug Control Program (UNIDCP)
UN Population Fund (UNPF)
World Health Organization (WHO)
World Meteorological Organization (WMO)
[58 FR 68532, Dec. 28, 1993]

PART 501—REPORTING AND PROCEDURES REGULATIONS

Subpart A—Relation of This Part to Other Parts in This Chapter

Sec.

501.101 Relation of this part to other parts in this chapter.

Subpart B—Definitions

501.301 Definitions.

Subpart C—Reports

501.601 Records and recordkeeping requirements.
501.602 Reports to be furnished on demand.
501.603 Reports on blocked property.
501.604 Reports by U.S. financial institutions on rejected funds transfers.